

MT LEGISLATIVE HISTORY

Chapter 441 1975

Bill H 650 S _____

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H. Committee on Natural Resources

S. Committee on _____

Hearing Date(s) Feb 25 ☒ C

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Date Out Feb 25 ☒ C

Mar 15 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 *Wiley* HOUSE BILL NO. 650
 2 INTRODUCED BY VINCENT Bradley Shelden Harper
 3 FAGE Huerfano Plummer Stall
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 50-1602 THROUGH 50-1609, 50-1614, 50-1615, 50-1616, 50-1035
 6 THROUGH 50-1039, 50-1041 THROUGH 50-1046, 50-1053, AND
 7 50-1055, R.C.M. 1947, TO PROVIDE FOR CONTROL OF SURFACE
 8 EFFECTS OF UNDERGROUND MINING OPERATIONS AND THE RECLAMATION
 9 OF LANDS AND WATERS AFFECTED BY UNDERGROUND MINING."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 50-1602, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-1602. Policy of state -- purposes of act --
 15 exercise of general police power. (1) It is the policy of
 16 this state to provide adequate remedies for the protection
 17 of the environmental life support system from degradation
 18 and provide adequate remedies to prevent unreasonable
 19 depletion and degradation of natural resources.

20 (2) It is the purpose of this act:

21 (a) to vest in the department the authority to review
 22 new strip mine and new underground mine site locations and
 23 reclamation plans and either approve or disapprove such
 24 locations and plans and to exercise general administration
 25 and enforcement of this act; and

1 (b) to vest in the board the authority to adopt rules,
 2 to suspend and revoke permits, and to conduct hearings; and
 3 (c) to satisfy the requirement of article IX, section
 4 2 of the constitution of this state, that all lands
 5 disturbed by the taking of natural resources be reclaimed;
 6 and

7 (d) to insure that adequate information is available
 8 on areas proposed for strip mining or underground mining so
 9 that mining and reclamation plans may be properly formulated
 10 to accommodate areas that are suitable for strip mining or
 11 underground mining.

12 (3) This act is deemed to be an exercise of the
 13 general police power to provide for the health and welfare
 14 of the people."

15 Section 2. Section 50-1603, R.C.M. 1947, is amended to
 16 read as follows:

17 "50-1603. Definitions. When used in this act, unless a
 18 different meaning clearly appears from the context:

19 (1) "Operation" means all of the premises, facilities,
 20 railroad loops, roads, power lines, and equipment used in
 21 the process of producing and removing mineral from a
 22 designated strip mine or underground mine area.

23 (2) "Board" means the board of land commissioners as
 24 provided for in article X, section 4 of the constitution of
 25 this state.

(3) "Department" means the department of state lands provided for in Title 82A, chapter 11.

(4) "New strip mine" means a strip mining operation proposed for an area of land which the department determines, because of distance from an existing strip mine or underground mine operation or because of important differences in topography, soils, wildlife, geologic structure, aquifers or vegetation from an existing strip mine or underground mine operation, does not constitute an expansion of an existing operation.

(5) "Preparatory work" means those on site disturbances, excluding prospecting, associated with the initiation of a new strip mine or underground mine, including but not limited to the construction of railroad spurs or loops, buildings to house mining operations, roads, storage and train load-out facilities, transmission lines, erection of draglines and loading shovels and other similar work.

(6) "Strip mining" means any part of the process followed in the production of mineral by the open cut method including mining by the auger method or any similar method which penetrates a mineral deposit and removes mineral directly through a series of openings made by a machine which enters the deposit from a surface excavation, or any other method or process in which the strata or overburden is

removed or displaced in order to recover the mineral.

(7) "Mineral" means mineral as defined in section 50-1036 (1), R.C.M. 1947.

(8) "Person" means a person, partnership, corporation, association or other legal entity, or any political subdivision or agency of the state.

(9) "Operator" means a person who intends to operate a new strip mine or new underground mine involving the removal of more than ten thousand (10,000) cubic yards of mineral or overburden.

(10) "New underground mine" means an underground mining operation proposed for an area of land which the department determines, because of distance from an existing strip mine operation or underground mine operation or because of important differences in topography, soils, wildlife, geologic structure, aquifers or vegetation from an existing strip mine operation or underground mine operation does not constitute an expansion of an existing operation.

(11) "Underground mining" means any part of the process followed in the production of a mineral such that vertical or horizontal shafts, slopes, drifts or incline planes connected with excavations penetrating the mineral stratum or strata are utilized."

Section 3. Section 50-1604, R.C.M. 1947, is amended to read as follows:

1 "50-1604. Orders and rules of board -- hearings. The
2 board:

3 (1) shall issue after an opportunity for a hearing,
4 orders requiring an operator to adopt the remedial measures
5 necessary to comply with this act and rules adopted under
6 this act;

7 (2) shall issue after an opportunity for a hearing, a
8 final order directing the department to revoke a permit,
9 when the requirements set forth by the notice of
10 noncompliance, order of suspension, or an order of the board
11 requiring remedial measures have not been complied with
12 according to the terms herein;

13 (3) shall adopt after an opportunity for a hearing,
14 general rules pertaining to new strip mines and to new
15 underground mines and preparatory work to accomplish the
16 purposes of this act;

17 (4) shall conduct hearings under provisions of this
18 act or rules adopted by the board."

19 Section 4. Section 50-1605, R.C.M. 1947, is amended to
20 read as follows:

21 "50-1605. Administration -- functions of department.
22 The department:

23 (1) shall exercise general supervision,
24 administration, and enforcement of this act and all rules
25 and orders adopted under this act;

1 (2) shall order the suspension of any permit for
2 failure to comply with this act, any rule adopted under this
3 act or permit issued pursuant to this act;

4 (3) shall order the halting of any operation that is
5 started without first having secured a permit as required by
6 this act;

7 (4) shall make investigations and inspections
8 necessary to insure compliance with this act;

9 (5) shall encourage and conduct investigations,
10 research, experiments and demonstrations, and collect and
11 disseminate information relating to new strip mines, new
12 underground mines and reclamation of lands and waters
13 affected by preparatory work;

14 (6) shall adopt rules with respect to the filing of
15 reports, the issuance of permits and other matters of
16 procedure and administration."

17 Section 5. Section 50-1606, R.C.M. 1947, is amended to
18 read as follows:

19 "50-1606. Permit required to engage in preparatory
20 work. No person may commence preparatory work until the
21 operator shall have first obtained from the department a
22 mine site location permit for a new strip mine or a new
23 underground mine, or a permit under chapter 10, Title 50,
24 R.C.M. 1947, if the application for such permit under Title
25 50 includes an appropriate long range mining plan acceptable

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1 to the department."

2 Section 6. Section 50-1607, R.C.M. 1947, is amended to
3 read as follows:

4 "50-1607. Application for permit -- contents -- permit
5 authorization -- notification -- fee -- bond. (1) A person
6 desiring a mine site location permit shall file with the
7 department an application which shall contain a reclamation
8 plan for any preparatory work and such other information the
9 department deems necessary to determine if the proposed area
10 to be affected by the operation is appropriate for the
11 location of a new strip mine or a new underground mine. The
12 department may require any information included in, but not
13 limited to, an application for a strip mining permit or
14 underground mining permit as required by chapter 10, Title
15 50, R.C.M. 1947.

16 (2) A mine site location permit shall authorize the
17 applicant to engage in preparatory work upon the area
18 described in the application and designated in the permit
19 for a period of one (1) year from the date of issuance and
20 is renewable until the applicant has applied for and
21 received a strip mining or underground mining permit in
22 accordance with chapter 10, Title 50, R.C.M. 1947.

23 (3) The department shall notify the applicant within
24 three hundred sixty-five (365) days of receipt of a complete
25 application if the proposed site is an acceptable location

1 for development of a new strip mine or a new underground
2 mine. If the site is approved, the department shall issue
3 the applicant a mine site location permit. If the location
4 is not approved, the department shall notify the applicant
5 in writing, setting forth reasons why the location is not
6 acceptable. The department shall also notify the applicant
7 within three hundred sixty-five (365) days of receipt of a
8 complete application whether the proposed reclamation plan
9 is or is not acceptable. If the plan is not acceptable, the
10 department shall set forth the reasons for non-acceptance of
11 the plan. It may propose modifications, delete areas, or
12 reject the entire plan.

13 (4) A fee of fifty dollars (\$50) shall be paid before
14 the mine site location permit required in this act may be
15 issued. The operator shall also file with the department a
16 bond payable to the state of Montana with surety
17 satisfactory to the department in the penal sum to be
18 determined by the board (on the recommendation of the
19 commissioner) of not less than two hundred dollars (\$200)
20 nor more than ten thousand dollars (\$10,000) for each acre
21 or fraction thereof of the area of land to be disturbed by
22 preparatory work, with a minimum bond of five thousand
23 dollars (\$5,000), conditioned upon the faithful performance
24 of the requirements set forth in this act and of the rules
25 of the board. In determining the amount of the bond within

1 the above limits, the board shall take into consideration
2 the character and nature of the surface disturbances, the
3 future suitable use of the land involved and the cost of
4 removing or burying facilities, backfilling, grading,
5 topsoiling, and reclamation to be required. Notwithstanding
6 the above limits the bond may not be less than the total
7 estimated cost to the state of completing the work described
8 in the reclamation plan."

9 Section 7. Section 50-1608, R.C.M. 1947, is amended to
10 read as follows:

11 "50-1608. Refusal of permit -- grounds. (1) The
12 department may not issue a permit under this act if it finds
13 that a new strip mine or a new underground mine is not
14 consistent with the purposes and policies of this act.

15 (2) The department shall not approve a new strip
16 mining site, a new underground mining site or preparatory
17 work site for any areas of land or water included in the
18 application if the department determines that the area could
19 not be approved under the criteria specified in Section
20 50-1042, R.C.M. 1947.

21 (3) The department shall not issue a permit under this
22 act if a proposed reclamation plan does not meet the
23 requirements of Title 50, chapter 10, R.C.M. 1947."

24 Section 8. Section 50-1609, R.C.M. 1947, is amended to
25 read as follows:

1 "50-1609. Notice of noncompliance -- suspension of
2 permits -- conditions required for reinstatement of permits.
3 (1) If any of the requirements of this act or rules or
4 orders of the department and the board have not been
5 complied with within the time limits set by the department
6 or the board or by this act, the department shall serve a
7 notice of noncompliance on the operator, or where found
8 necessary, the commissioner shall order the suspension of a
9 permit. The notice or order shall be handed to the operator
10 in person or served by registered mail addressed to the
11 permanent address shown on the application for a permit. The
12 notice of noncompliance or order of suspension shall specify
13 in what respects the operator has failed to comply with this
14 act or the rules or orders of the department and the board.
15 If the operator has not complied with the requirement set
16 forth in the notice of noncompliance or order of suspension
17 within time limits set therein, the permit may be revoked by
18 order of the board and the performance bond forfeited to the
19 department.

20 (2) Any additional strip mining, or underground
21 mining, or mine site location permits held by an operator
22 whose mine site location permit has been revoked shall be
23 suspended and the operator is not eligible to receive
24 another permit or to have the suspended permits reinstated
25 until he has complied with all the requirements of this act

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1 in respect to former permits issued him. An operator who has
 2 forfeited a bond is not eligible to receive another permit
 3 unless the land for which the bond was forfeited has been
 4 reclaimed without cost to the state, or the operator has
 5 paid into the reclamation account a sum together with the
 6 value of the bond, the board finds adequate to reclaim the
 7 lands. The department may not issue any additional permits
 8 to an operator who has repeatedly been in noncompliance or
 9 violation of this act."

10 Section 9. Section 50-1614, R.C.M. 1947, is amended to
 11 read as follows:

12 "50-1614. Submitted information may be accepted to
 13 meet strip mining or underground mining permit requirements.
 14 The department may choose to accept information submitted
 15 under this act to the extent it is applicable and relevant
 16 as satisfying the requirements of chapter 10, Title 50."

17 Section 10. Section 50-1615, R.C.M. 1947, is amended
 18 to read as follows:

19 "50-1615. Termination of permit. A mine site location
 20 permit granted by the department in accordance with the
 21 provisions of this act shall remain in full force and effect
 22 until the provisions of the permit are complied with and the
 23 bond is released, except that those areas of land covered by
 24 a mine site location permit for which a strip mining or an
 25 underground mining permit is granted pursuant to the

1 provisions of chapter 10, Title 50, shall be released from
 2 the terms and provisions of the mine site location permit."

3 Section 11. Section 50-1616, R.C.M. 1947, is amended
 4 to read as follows:

5 "50-1616. Effect of strip mine or underground mine
 6 siting permit on subsequent strip mining or underground
 7 mining permits. When the department has sufficient
 8 information to approve or disapprove a mine site location
 9 permit application on either the entire area being
 10 considered for a mine site location permit or a portion
 11 thereof on the grounds listed in section 50-1042 (2) and
 12 (4), it shall so state in a written statement to the
 13 operator. This decision is binding on the department with
 14 regard to strip mining or underground mining permit
 15 applications as specified in chapter 10, Title 50, R.C.M.
 16 1947, unless:

17 (1) new information is submitted or obtained in
 18 compliance with chapter 10, Title 50, which indicates a
 19 situation not existing or known at the time of the issuance
 20 of a permit under this act;

21 (2) an application under this act misrepresented
 22 information related to the criteria;

23 (3) a situation develops because of strip mining or
 24 underground mining operations which was not in existence at
 25 the time of the issuance of a permit under this act."

1 Section 12. Section 50-1035, R.C.M. 1947, is amended
2 to read as follows:

3 "50-1035. Policy of state -- findings. It being the
4 declared policy of this state and its people

5 --to maintain and improve the state's clean and
6 healthful environment for present and future generations,

7 --to protect its environmental life-support system from
8 degradation,

9 --to prevent unreasonable degradation of its natural
10 resources,

11 --to restore, enhance, and preserve its scenic,
12 historic, archeologic, scientific, cultural, and
13 recreational sites,

14 --to demand effective reclamation of all lands
15 disturbed by the taking of natural resources, and

16 --to require the legislature to provide for proper
17 administration and enforcement, create adequate remedies,
18 and set effective requirements and standards (especially as
19 to reclamation of disturbed lands) in order to achieve the
20 aforementioned objectives,

21 the legislature hereby finds and declares:

22 (1) That, in order to achieve the aforementioned
23 policy objectives, promote the health and welfare of the
24 people, control erosion and pollution, protect domestic
25 stock and wildlife, preserve agricultural and recreational

1 productivity, save cultural, historic, and aesthetic values,
2 and assure a long-range dependable tax base, it is
3 reasonably necessary to require, after the effective date of
4 this act, that all strip mining and underground mining
5 operations be limited to those for which annual permits are
6 granted, that no permit be issued until the operator
7 presents a comprehensive plan for surface reclamation and
8 restoration, together with an adequate performance bond, and
9 the plan is approved, that certain other things must be
10 done, that certain remedies are available, and that certain
11 lands because of their unique or unusual characteristics may
12 not be strip mined or underground mined under any
13 circumstances, all as more particularly appears in the
14 remaining provisions of this act.

15 (2) That this act be deemed to be an exercise of the
16 authority granted in the Montana constitution, as adopted
17 June 6, 1972, and in particular, a response to the mandate
18 expressed in article IX thereof, and also be deemed to be an
19 exercise of the general police power to provide for the
20 health and welfare of the people."

21 Section 13. Section 50-1036, R.C.M. 1947, is amended
22 to read as follows:

23 "50-1036. Definitions. Unless the context requires
24 otherwise in this act:

25 (1) "mineral" means coal and uranium;

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1 (2) "overburden" means all of the earth and other
2 materials which lie above a natural mineral deposit and also
3 means such earth and other material after removal from their
4 natural state in the process of strip mining;

5 (3) "strip mining" means any part of the process
6 followed in the production of mineral by the open cut method
7 including mining by the auger method or any similar method
8 which penetrates a mineral deposit and removes mineral
9 directly through a series of openings made by a machine
10 which enters the deposit from a surface excavation, or any
11 other mining method or process in which the strata or
12 overburden is removed or displaced in order to recover the
13 mineral;

14 (4) "prospecting" means the removal of overburden,
15 core drilling, construction of roads or any other
16 disturbance of the surface for the purpose of determining
17 the location, quantity, or quality of a natural mineral
18 deposit;

19 (5) "area of land affected" means the area of land
20 from which overburden is to be or has been removed and upon
21 which the overburden is to be or has been deposited and
22 includes all land overlying any tunnels, shafts or other
23 excavations used to extract the mineral, lands affected by
24 the construction of new railroad loops and roads or the
25 improvement or use of existing railroad loops and roads to

1 gain access and to haul the mineral, processing or other
2 mine associated facilities, tailings, and treatment ponds,
3 and any other surface or subsurface disturbance associated
4 with strip mining or underground mining;

5 (6) "operation" means all of the premises, facilities,
6 railroad loops, roads, and equipment used in the process of
7 producing and removing mineral from a designated strip mine
8 or underground mine area, or prospecting for the purpose of
9 determining the location, quality, or quantity of a natural
10 mineral deposit;

11 (7) "operator" means a person engaged in strip mining
12 or underground mining who removes or intends to remove more
13 than ten thousand (10,000) cubic yards of mineral or
14 overburden;

15 (8) "person" means a person, partnership, corporation,
16 association, or other legal entity, or any political
17 subdivision, or agency of the state;

18 (9) "method of operation" means the method or manner
19 by which the cut, ~~or~~ open pit shaft, or excavation is made,
20 the overburden is placed or handled, water is controlled and
21 other acts are performed by the operator in the process of
22 uncovering and removing the minerals that affect the
23 reclamation of the area of land affected;

24 (10) "topsoil" means the unconsolidated mineral matter
25 naturally present on the surface of the earth that has been

1 subjected to and influenced by genetic and environmental
2 factors of parent material, climate, macro- and
3 micro-organisms, and topography, all acting over a period of
4 time, and that is necessary for the growth and regeneration
5 of vegetation on the surface of the earth;

6 (11) "department" means the department of state lands
7 provided for in Title 82A, chapter 11;

8 (12) "commissioner" means the commissioner of state
9 lands provided for in section 82A-1104;

10 (13) "board" means the board of land commissioners
11 provided for in article X, section 4 of the constitution of
12 this state;

13 (14) "reclamation" means backfilling, grading, highwall
14 reduction, topsoiling, planting, revegetation, and other
15 work to restore an area of land affected by strip mining or
16 underground mining under a plan approved by the department;

17 (15) "degree" means from the horizontal, and in each
18 case is subject to a tolerance of five percent (5%) error;

19 (16) "contour strip mining" means that strip mining
20 method commonly carried out in areas of rough and hilly
21 topography in which the coal or mineral seam outcrops along
22 the side of the slope and entrance is made to the seam by
23 excavating a bench or table cut at and along the site of the
24 seam outcropping with the excavated overburden commonly
25 being cast down the slope below the mineral seam and the

1 operating bench;

2 (17) "bench" means the ledge, shelf, table, or terraces
3 formed in the contour method of strip mining;

4 (18) "fill bench" means that portion of a bench or
5 table which is formed by depositing overburden beyond or
6 down slope from the cut section as formed in the contour
7 method of strip mining;

8 (19) "abandoned" means an operation where no mineral is
9 being produced and where the department determines that the
10 operation will not continue or resume.

11 (20) "underground mining" means any part of the process
12 followed in the production of a mineral such that vertical
13 or horizontal shafts, slopes, drifts, or incline planes
14 connected with excavations penetrating the mineral stratum
15 or strata are utilized;

16 (21) "aquifer" means any geologic formation or natural
17 zone beneath the earth's surface that contains or stores
18 water and transmits it from one point to another in
19 quantities which permit or have the potential to permit
20 economic development as a water source."

21 Section 14. Section 50-1037, R.C.M. 1947, is amended
22 to read as follows:

23 "50-1037. Orders and rules of board -- hearings. The
24 board:

25 (1) shall issue after an opportunity for a hearing,

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1 orders requiring an operator to adopt the remedial measures
2 necessary to comply with this act and rules adopted under
3 this act;

4 (2) shall issue after an opportunity for a hearing, a
5 final order directing the department to revoke a permit,
6 when the requirements set forth by the notice of
7 noncompliance, order of suspension, or an order of the board
8 requiring remedial measures have not been complied with
9 according to the terms herein;

10 (3) shall adopt after an opportunity for a hearing,
11 general rules pertaining to strip mining and to underground
12 mining to accomplish the purposes of this act;

13 (4) shall conduct hearings under provisions of this
14 act or rules adopted by the board."

15 Section 15. Section 50-1038, R.C.M. 1947, is amended
16 to read as follows:

17 "50-1038. Administration -- functions of department.
18 The department:

19 (1) shall exercise general supervision,
20 administration, and enforcement of this act and all rules
21 and orders adopted under this act;

22 (2) shall examine and pass upon all plans and
23 specifications submitted by the operator for the method of
24 operation, backfilling, grading, highwall reduction,
25 topsoiling and for the reclamation of the area of land

1 affected by his operation;

2 (3) shall order the suspension of any permit for
3 failure to comply with this act or any rule adopted under
4 this act;

5 (4) shall order the halting of any operation that is
6 started without first having secured a permit as required by
7 this act;

8 (5) shall make investigations and inspections
9 necessary to insure compliance with this act;

10 (6) may encourage and conduct investigations,
11 research, experiments and demonstrations, and collect and
12 disseminate information relating to strip mining underground
13 mining and reclamation of lands and waters affected by strip
14 mining and underground mining;

15 (7) may adopt rules with respect to the filing of
16 reports, the issuance of permits and other matters of
17 procedure and administration."

18 Section 16. Section 50-1039, R.C.M. 1947, is amended
19 to read as follows:

20 "50-1039. Permit required to engage in strip mining or
21 underground mining -- application for permit -- contents --
22 fee -- bond. (1) An operator may not engage in strip mining
23 without having first obtained from the department a permit
24 designating the area of land affected by the operation. The
25 permit shall authorize the operator to engage in strip

1 mining upon the area of land described in his application
 2 and designated in the permit for a period of one (1) year
 3 from the date of its issuance. Such permit shall be
 4 renewable from year to year thereafter upon application to
 5 the department at least thirty (30) but not more than sixty
 6 (60) days prior to the renewal date so long as the operator
 7 is in compliance with the requirements of this act, the
 8 rules hereunder, and the reclamation plan provided for in
 9 section ~~10-{50-1043}-of-this-act~~, and agrees to comply with
 10 all applicable laws and rules in effect at the time of
 11 renewal. Such renewal shall further be subject to the denial
 12 provisions of sections ~~9--and-13-{50-1042 and 50-1046}-of~~
 13 ~~this-act~~.

14 (2) An operator desiring a permit shall file an
 15 application which shall contain a complete and detailed plan
 16 for the mining, reclamation, revegetation, and
 17 rehabilitation of the land and water to be affected by the
 18 operation. Such plan shall reflect thorough advance
 19 investigation and study by the operator and shall include
 20 all known or readily discoverable past and present uses of
 21 the land and water to be affected and the approximate
 22 periods of such use and shall state:

23 (a) the location and area of land to be affected by
 24 the operation, with a description of access to the area from
 25 the nearest public highways;

1 (b) the names and addresses of the owners of record of
 2 the surface of the area of land to be affected by the permit
 3 and the owners of record of all surface area within one-half
 4 (.5) mile of any part of the affected area;

5 (c) the names and addresses of the present owners of
 6 record of all subsurface minerals in the land to be
 7 affected;

8 (d) the source of the applicant's legal right to mine
 9 the mineral on the land affected by the permit;

10 (e) the permanent and temporary post-office addresses
 11 of the applicant;

12 (f) whether the applicant or any person associated
 13 with the applicant holds or has held any other permits under
 14 this act, and an identification of those permits;

15 (g) whether the applicant is in compliance with
 16 ~~subsection-{2}-of~~ section ~~17--{50-1050}~~ and whether every
 17 officer, partner, director, or any individual owner of
 18 record or beneficially (alone or with associates) if known,
 19 ten percent (10%) or more of any class of stock of the
 20 applicant, is subject to any of the provisions of ~~subsection~~
 21 ~~{2}-of~~ section ~~17-{50-1050}~~ and he shall so certify, and
 22 whether any of the foregoing parties or persons have ever
 23 had a strip mining or underground mining license or permit
 24 issued by any other state or federal agency revoked, or have
 25 ever forfeited a strip mining or underground mining bond or

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1 a security deposited in lieu of a bond and if so, a detailed
2 explanation of the facts involved in each case must be
3 attached;

4 (h) the names and addresses of any persons who are
5 engaged in strip mining activities on behalf of the
6 applicant;

7 (i) the annual rainfall and the direction and average
8 velocity of the prevailing winds in the area where the
9 applicant has requested a permit;

10 (j) the results of any test borings or core samplings
11 which the applicant or his agent has conducted on the land
12 to be affected, including the nature and the depth of the
13 various strata or overburden and topsoil, the quantities and
14 location of subsurface water and its quality, the thickness
15 of any mineral seam, an analysis of the chemical properties
16 of such minerals, including the acidity, sulphur content,
17 and trace mineral elements of any coal seam, as well as the
18 British thermal unit (B.T.U.) content of such seam, and an
19 analysis of the overburden, including topsoil. If test
20 borings or core samplings are submitted, each permit
21 application shall contain two (2) copies each of two (2)
22 sets of geologic cross-sections accurately depicting the
23 known geologic makeup beneath the surface of the affected
24 land. Each set shall depict subsurface conditions at five
25 hundred (500) foot intervals across the surface and shall

1 run at a ninety (90) degree angle to the other set unless
2 the department determines that closer intervals are
3 required. Each cross-section shall depict the thickness and
4 geological character of all known strata beginning with the
5 top soil; in addition, each application for an underground
6 mining permit shall be accompanied by cross-sections and
7 maps showing the underground locations of all shafts,
8 entries, and haulageways or other excavations to be
9 excavated during the permit year. These cross-sections
10 shall also include all existing shafts, entries and
11 haulageways.

12 (k) the name and date of a daily newspaper of general
13 circulation within the county in which the applicant has
14 prominently published an announcement of his application for
15 a strip mining or underground mining permit, and a detailed
16 description of the area of land to be affected should a
17 permit be granted;

18 (l) such other or further information as the
19 department may require.

20 (3) The application for a permit shall be accompanied
21 by two (2) copies of all maps meeting the requirements of
22 the subsections below. The maps shall:

23 (a) identify the area to correspond with the
24 application;

25 (b) show any adjacent deep mining or surface mining

1 and the boundaries of surface properties and names of owners
2 of record of the affected area and within one thousand
3 (1,000) feet of any part of the affected area;

4 (c) show the names and locations of all streams,
5 creeks, or other bodies of water, roads, buildings,
6 cemeteries, oil and gas wells, and utility lines on the area
7 of land affected and within one thousand (1,000) feet of
8 such area;

9 (d) show by appropriate markings the boundaries of the
10 area of land affected, any cropline of the seam or deposit
11 of mineral to be mined, and the total number of acres
12 involved in the area of land affected;

13 (e) show the date on which the map was prepared and
14 the north point;

15 (f) show the drainage plan on and away from the area
16 of land affected. This plan shall indicate the directional
17 flow of water, constructed drainways, natural waterways used
18 for drainage, and the streams or tributaries receiving the
19 discharge;

20 (g) show the proposed location of waste or refuse
21 area;

22 (h) show the proposed location of temporary subsoil
23 and topsoil storage area;

24 (i) show the location of test boring holes;

25 (j) show the surface location lines of any geologic

1 cross-sections which have been submitted;

2 (k) show a listing of plant varieties encountered in
3 the area to be affected and their relative dominance in the
4 area, together with an enumeration of tree varieties and the
5 approximate number of each variety occurring per acre on the
6 area to be affected, and the locations generally of the
7 various kinds and varieties of plants, including but not
8 limited to grasses, shrubs, legumes, forbs and trees;

9 (l) be certified as follows: "I, the undersigned,
10 hereby certify that this map is correct, and shows to the
11 best of my knowledge and belief all the information required
12 by the strip mining laws of this state." The certification
13 shall be signed and notarized. The department may reject a
14 map as incomplete if its accuracy is not so attested;

15 (m) contain such other or further information as the
16 department may require.

17 (4) In addition to the information and maps required
18 above, each application for a permit shall be accompanied by
19 detailed plans or proposals showing the method of operation,
20 the manner, time or distance, and estimated cost for
21 backfilling, grading work, highwall reduction, topsoiling,
22 planting, revegetating, and a reclamation plan for the area
23 affected by the operation, which proposals shall meet the
24 requirements of this act and rules adopted under this act.

25 (5) An application fee of fifty dollars (\$50) shall be

1 paid before the permit required in this section shall be
 2 issued. The operator shall file with the department a bond
 3 payable to the state of Montana with surety satisfactory to
 4 the department in the penal sum to be determined by the
 5 board (on the recommendation of the commissioner) of not
 6 less than two hundred dollars (\$200) nor more than
 7 twenty-five hundred dollars (\$2,500) for each acre or
 8 fraction thereof of the area of land affected, with a
 9 minimum bond of two thousand dollars (\$2,000), conditioned
 10 upon the faithful performance of the requirements set forth
 11 in this act and of the rules of the board. In determining
 12 the amount of the bond within the above limits, the board
 13 shall take into consideration the character and nature of
 14 the overburden, the future suitable use of the land involved
 15 and the cost of backfilling, grading, highwall reduction,
 16 topsoiling, and reclamation to be required; but in no event
 17 shall the bond be less than the total estimated cost to the
 18 state of completing the work described in the reclamation
 19 plan."

20 Section 17. Section 50-1041, R.C.M. 1947, is amended
 21 to read as follows:

22 "50-1041. Prospecting permit -- application --
 23 contents -- reclamation plan -- fee -- bond. (1) On and
 24 after the effective date of this act prospecting by any
 25 person on land not included in a valid strip mining or

1 underground mining permit shall be unlawful without
 2 possessing a valid prospecting permit issued by the
 3 department as provided in this section. No prospecting
 4 permit shall be issued until the operator submits an
 5 application, the application is examined, amended if
 6 necessary, and approved by the department, and adequate
 7 reclamation performance bond is posted, all of which
 8 prerequisites must be done in conformity with the
 9 requirements of this act.

10 (2) An application for a prospecting permit shall be
 11 made in writing, notarized, and submitted to the department
 12 in duplicate upon forms prepared and furnished by it. The
 13 application shall include among other things, a prospecting
 14 map and a prospecting reclamation plan of substantially the
 15 same character as required for a surface mining or
 16 underground mining map and reclamation plan under this act.
 17 The department shall determine, by rules and regulations,
 18 the precise nature of such required prospecting map and
 19 reclamation plan. Any operator who intends to prospect by
 20 means of core drilling shall specify the location and number
 21 of holes to be drilled, methods to be used in sealing
 22 aquifers, and such other information as may be required by
 23 the department. The applicant must state what types of
 24 prospecting and excavating techniques will be employed on
 25 the affected land. The application shall also include any

1 other or further information the department may require.

2 (3) The application shall be accompanied by a fee of
3 one hundred dollars (\$100). This fee shall be used as a
4 credit toward the strip mining or underground mining permit
5 fee provided by this act if the area covered by the
6 prospecting permit becomes covered by a valid surface mining
7 or underground mining permit obtained before or at the time
8 the prospecting permit expires.

9 (4) Before the department gives final approval to the
10 prospecting permit application, the applicant shall file
11 with the department a reclamation and revegetation bond in a
12 form and in an amount as determined in the same manner for
13 strip mining or underground mining reclamation and
14 revegetation bonds under this act.

15 (5) In the event that the holder of a prospecting
16 permit desires to strip mine or underground mine the area
17 covered by the prospecting permit, and has fulfilled all the
18 requirements for a strip mining or underground mining
19 permit, the department may permit the postponement of the
20 reclamation of the acreage prospected if that acreage is
21 incorporated into the complete reclamation plan submitted
22 with the application for a strip mining or underground
23 mining permit. Any land actually affected by prospecting or
24 excavating under a prospecting permit and not covered by the
25 strip mining or underground mining reclamation plan shall be

1 promptly reclaimed.

2 (6) The prospecting permit shall be valid for one (1)
3 year, and shall be subject to renewal, suspension, and
4 revocation in the same manner as strip mining or underground
5 mining permits under this act.

6 (7) The holder of the prospecting permit shall file
7 with the department the same progress reports, maps, and
8 revegetation progress reports, as are required of strip
9 mining or underground mining operators under this act."

10 Section 18. Section 50-1042, R.C.M. 1947, is amended
11 to read as follows:

12 "50-1042. Refusal of permit -- grounds. (1) An
13 application for a prospecting or strip mining or underground
14 mining permit shall not be approved by the department if
15 there is found on the basis of the information set forth in
16 the application, an on-site inspection, and an evaluation of
17 the operation by the department that the requirements of the
18 act or rules will not be observed or that the proposed
19 method of operation, backfilling, grading, highwall
20 reduction, topsoiling, revegetation, or reclamation of the
21 affected area cannot be carried out consistent with the
22 purpose of this act.

23 (2) The department shall not approve the application
24 for a prospecting ~~or~~, strip mining or underground mining
25 permit where the area of land described in the application

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1 includes land having special, exceptional, critical, or
2 unique characteristics, or that mining or prospecting on
3 that area would adversely affect the use, enjoyment, or
4 fundamental character of neighboring land having special,
5 exceptional, critical, or unique characteristics. For the
6 purposes of this act, land is defined as having such
7 characteristics if it possesses special, exceptional,
8 critical or unique:

9 (a) biological productivity, the loss of which would
10 jeopardize certain species of wildlife or domestic stock; or

11 (b) ecological fragility, in the sense that the land,
12 once adversely affected, could not return to its former
13 ecological role in the reasonable foreseeable future; or

14 (c) ecological importance, in the sense that the
15 particular land has such a strong influence on the total
16 ecosystem of which it is a part that even temporary effects
17 felt by it could precipitate a system-wide reaction of
18 unpredictable scope or dimensions; or

19 (d) scenic, historic, archeologic, topographic,
20 geologic, ethnologic, scientific, cultural, or recreational
21 significance. In applying this subsection, particular
22 attention should be paid to the inadequate preservation
23 previously accorded Plains Indian history and culture.

24 (3) If the department finds that the overburden on any
25 part of the area of land described in the application for a

1 prospecting or strip mining or underground mining permit is
2 such that experience in the state with a similar type of
3 operation upon land with similar overburden shows that
4 substantial deposition of sediment in streambeds,
5 landslides, or water pollution cannot feasibly be prevented,
6 the department shall delete that part of the land described
7 in the application upon which the overburden exists.

8 (4) If the department finds that the operation will
9 constitute a hazard to a dwelling house, public building,
10 school, church, cemetery, commercial or institutional
11 building, public road, stream, lake, or other public
12 property, the department shall delete those areas from the
13 prospecting or strip mining or underground mining permit
14 application before it can be approved."

15 Section 19. Section 50-1043, R.C.M. 1947, is amended
16 to read as follows:

17 "50-1043. Reclamation operations -- submission and
18 action on plan. (1) As rapidly, completely, and effectively
19 as the most modern technology and the most advanced state of
20 the art will allow, each operator granted a permit under
21 this act, shall reclaim and revegetate the land affected by
22 his operation, except that underground tunnels, shafts, or
23 other subsurface excavations need not be revegetated. Under
24 the provisions of this act and rules adopted by the board,
25 an operator shall prepare and carry out a method of

1 operation, plan of grading, backfilling, highwall reduction,
2 topsoiling and a reclamation plan for the area of land
3 affected by his operation. In developing a method of
4 operation, and plans of backfilling, grading, highwall
5 reduction, topsoiling and reclamation, all measures shall be
6 taken to eliminate damages to landowners and members of the
7 public, their real and personal property, public roads,
8 streams and all other public property from soil erosion,
9 landslides, water pollution, and hazards dangerous to life
10 and property. The reclamation plan shall set forth in detail
11 the manner in which the applicant intends to comply with
12 this section and sections ~~11, 12 and 13~~ 150-1044, 50-1045
13 and 50-1046 ~~of this act~~. The plan shall be submitted to the
14 department and the department shall notify the applicant by
15 registered mail within one hundred twenty (120) days after
16 receipt of the plan and complete application if it is or is
17 not acceptable. The department may extend the one hundred
18 twenty (120) days an additional one hundred twenty (120)
19 days upon notification of the operator in writing. If the
20 plan is not acceptable, the department shall set forth the
21 reasons why the plan is not acceptable and it may propose
22 modifications, delete areas, or reject the entire plan. A
23 land owner, operator, or any person aggrieved by the
24 decision of the department may, by written notice, request a
25 hearing by the board. The board shall notify the person by

1 registered mail within twenty (20) days after the hearing of
2 its decision. Every reclamation plan shall be subject to
3 annual review and modification.

4 (2) In addition to the method of operation, grading,
5 backfilling, highwall reduction, topsoiling and reclamation
6 requirements of this act and rules adopted under this act,
7 the operator, consistent with the directives of subsection
8 (1) of this section shall:

9 (a) bury under adequate fill all toxic materials,
10 shale, mineral, or any other material determined by the
11 department to be acid producing, toxic, undesirable, or
12 creating a hazard;

13 (b) seal off, as directed by rules, any breakthrough
14 of water creating a hazard;

15 (c) impound, drain, or treat all runoff water so as to
16 reduce soil erosion, damage to grazing and agricultural
17 lands, and pollution of surface and subsurface waters;

18 (d) remove or bury all metal, lumber, and other refuse
19 resulting from the operation;

20 (e) use explosives in connection with the operation
21 only in accordance with department regulations designed to
22 minimize noise, surface damage to adjacent lands and water
23 pollution, ensure public safety, and for other purposes.

24 (f) adopt measures to prevent land subsidence unless
25 the board approves a plan for inducing subsidence into an

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abandoned operation in a predictable and controlled manner with measures for grading, topsoiling, and revegetating the subsided land surface. In order for a controlled subsidence plan to be approved the applicant must show that subsidence will not cause a direct or indirect hazard to any public or private buildings, roads, facilities, or use areas; constitute a hazard to human life or health; constitute a hazard to domestic livestock or to a viable agricultural operation; or any other restrictions the board may consider necessary.

(g) stockpile and protect from erosion all mining and processing wastes until such wastes can be disposed of according to the provisions of this act.

(h) deposit as much stockpiled waste material as possible back into the mine voids upon abandonment in such manner as to prevent or minimize land subsidence. The remaining waste material shall be disposed of as provided by this act and the rules of the board.

(i) seal all portals, entryways, drifts, shafts or other openings between the surface and underground mine workings upon abandonment.

(3) An operator may not throw, dump, pile or permit the dumping, piling, or throwing or otherwise placing any overburden, stones, rocks, mineral, earth, soil, dirt, debris, trees, wood, logs or any other materials or

substances of any kind or nature beyond or outside of the area of land which is under permit and for which a bond has been posted under section 6--{50-1039}, or place the materials described in this section in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of the area of land which is under permit and for which a bond has been posted under section 6--{50-1039}."

Section 20. Section 50-1044, R.C.M. 1947, is amended to read as follows:

"50-1044. Area mining required -- grading and revegetation -- release of bond -- alternative plan. (1) Area strip mining, a method of operation which does not produce a bench or fill bench, is required to obtain a surface mining permit. All highwalls must be reduced and the steepest slope of the reduced highwall shall be no greater than twenty (20) degrees from the horizontal. Highwall reduction shall be commenced at or beyond the top of the highwall and sloped to the graded spoil bank. Reduction, backfilling, and grading shall eliminate all highwalls and spoil peaks. The area of land affected shall be restored to the approximate original contour of the land. When directed by the department, the operator shall construct in the final grading, such diversion ditches, depressions, or terraces as will accumulate or control the

1 water runoff. Additional restoration work may be required by
2 the department according to rules adopted by the board.

3 (2) In addition to the backfilling and grading
4 requirements, the operator's method of operation on steep
5 slopes may be regulated and controlled according to rules
6 adopted by the board. These rules may require any measure
7 whatsoever to accomplish the purpose of this act.

8 (3) All available topsoil shall be removed in a
9 separate layer, guarded from erosion and pollution, kept in
10 such a condition that it can sustain vegetation of at least
11 the quality and variety it sustained prior to removal, and
12 returned as the top layer after the operation has been
13 backfilled and graded; provided that the operator shall
14 accord substantially the same treatment to any subsurface
15 deposit of material that is capable, as determined by the
16 department, of supporting surface vegetation virtually as
17 well as the present topsoil.

18 (4) As determined by rules of the board, time limits
19 shall be established requiring backfilling, grading,
20 highwall reduction, topsoiling, planting, and revegetation
21 to be kept current. All backfilling, grading, and topsoiling
22 shall be completed before necessary equipment is moved from
23 the operation.

24 (5) When the backfilling, grading, and topsoiling have
25 been completed and approved by the department, the

1 commissioner may release so much of the bond which was filed
2 for that portion of the operation as the commissioner may
3 determine, provided that no less than two hundred dollars
4 (\$200) per acre shall be retained by the department until
5 such time as the planting and revegetation is done according
6 to law and approved by the department, at which time the
7 commissioner shall release the bond in the remaining amount.

8 (6) An operator may propose alternative plans other
9 than backfilling, grading, highwall reduction, or topsoiling
10 if the restoration will be consistent with the purpose of
11 this act. These plans shall be submitted to the department,
12 and, after consultation with the landowner, if the plans are
13 approved by the board and complied with within the time
14 limits as may be determined by the board as being reasonable
15 for carrying out the plans, the backfilling, grading,
16 highwall reduction, or topsoiling requirements of this act
17 may be modified by the board. An operator who proposes
18 alternative plans that will affect an existing permit shall
19 comply with the notice requirement of section 6-~~(2)-(k)~~
20 ~~450-1039 (2) (k)~~."

21 Section 21. Section 50-1045, R.C.M. 1947, is amended
22 to read as follows:

23 "50-1045. Planting of vegetation following filling of
24 stripped area. (1) After the operation has been backfilled,
25 graded, topsoiled, and approved by the department, the

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1 operator shall prepare the soil and plant such legumes,
2 grasses, shrubs, and trees upon the area of land affected as
3 are necessary to provide a suitable permanent diverse
4 vegetative cover capable of:

5 (a) feeding and withstanding grazing pressure from a
6 quantity and mixture of wildlife and livestock at least
7 comparable to that which the land could have sustained prior
8 to the operation;

9 (b) regenerating under the natural conditions
10 prevailing at the site, including occasional drought, heavy
11 snowfalls, and strong winds; and

12 (c) preventing soil erosion to the extent achieved
13 prior to the operation.

14 The seed or plant mixtures, quantities, method of
15 planting, type and amount of lime or fertilizer, mulching,
16 irrigation, fencing, and any other measures necessary to
17 provide a suitable permanent diverse vegetative cover shall
18 be defined by rules of the board.

19 (2) All underground shafts, tunnels, or other
20 excavations are excluded from the provisions of subsection
21 (1) of this section."

22 Section 22. Section 50-1046, R.C.M. 1947, is amended
23 to read as follows:

24 "50-1046. Time of commencement of reclamation. The
25 operator shall commence the reclamation of the area of land

1 affected by his operation as soon as possible after the
2 beginning of strip mining or underground mining of that area
3 in accordance with plans previously approved by the
4 department. Those grading, backfilling, topsoiling, and
5 water management practices that are approved in the plans
6 shall be kept current with the operation as defined by rules
7 of the board and a permit or supplement to a permit may not
8 be issued, if in the discretion of the department, these
9 practices are not current."

10 Section 23. Section 50-1053, R.C.M. 1947, is amended
11 to read as follows:

12 "50-1053. Funds received by board -- reclamation work
13 by board -- rehabilitation of unreclaimed lands. (1) The
14 board may receive any federal funds, state funds, or any
15 other funds for the reclamation of land affected by strip
16 mining or underground mining. The board may have reclamation
17 work done by its own employees or by employees of other
18 governmental agencies, soil conservation districts, or
19 through contracts with qualified persons.

20 (2) Any funds or any public works programs available
21 to the board shall be used and expended to reclaim and
22 rehabilitate lands that have been subjected to strip mining
23 or underground mining that have not been reclaimed and
24 rehabilitated in accordance with the standards of this act."

25 Section 24. Section 50-1055, R.C.M. 1947, is amended

1 to read as follows:

2 "50-1055. Mandamus to compel enforcement of law --
3 action for damage to water supply -- damage from surface
4 water -- other remedies. A resident of this state, with
5 knowledge that a requirement of this act or a rule adopted
6 under this act, is not being enforced by a public officer or
7 employee whose duty it is to enforce the requirement or rule
8 may bring the failure to enforce to the attention of the
9 public officer or employee by a written statement under oath
10 that shall state the specific facts of the failure to
11 enforce the requirement or rule. Knowingly making false
12 statements or charges in the affidavit subjects the affiant
13 to penalties prescribed under the law of perjury.

14 (2) If the public officer or employee neglects or
15 refuses for an unreasonable time after receipt of the
16 statement to enforce the requirement or rule, the resident
17 may bring an action of mandamus in the district court of the
18 first judicial district of this state, in and for the county
19 of Lewis and Clark, or in the district court of the county
20 in which the land is located. The court, if it finds that a
21 requirement of this act or a rule adopted under this act, is
22 not being enforced shall order the public officer or
23 employee, whose duty it is to enforce the requirement or
24 rule, to perform his duties. If he fails to do so, the
25 public officer or employee shall be held in contempt of

1 court and is subject to the penalties provided by law.

2 (3) An owner of an interest in real property who
3 obtains all or part of his supply of water for domestic,
4 agricultural, industrial, or other legitimate use from an
5 underground source other than a subterranean stream having a
6 permanent, distinct, and known channel, may sue an operator
7 to recover damages for contamination, diminution, or
8 interruption of the water supply, proximately resulting from
9 strip mining or underground mining.

10 (4) A servient tract of land is not bound to receive
11 surface water contaminated by strip mining or underground
12 mining on a dominant tract of land, and the owner of the
13 servient tract may sue an operator to recover the damages
14 proximately resulting from the natural drainage from the
15 dominant tract of surface waters contaminated by strip
16 mining or underground mining on the dominant tract.

17 (5) This section does not create, modify, or affect
18 any right, liability, or remedy other than as expressly
19 provided in this section."

-End-

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FEBRUARY 25, 1975 (AM)

The Natural Resources Committee met on February 25, 1975, at 10:35 a.m. in room 437 with Chairman Bradley presiding and Rep. Jack Moore and Rep. Jim Moore absent.

HJR 52 REP. KIMBLE stated this resolution has to do with collecting data on the Poplar River Area project and the possible ill effects that project may have on air and water quality in Montana.

There were no other speakers and no questions.

HB 650 REP. VINCENT stated this was a very necessary piece of legislation that addresses itself to underground mining and the surface effects and reclamation of land and water so affected. He stated the reason this is needed is there is several indications that the deep mining of coal is coming to Montana like at Deep Trail where there is a lot of coal and mining could have serious effects on the water in Bozeman. He stated he would like to see adequate regulations; as, at the present time, the state has no controls of this type of underground mining. This would include underground mines in the Strip Mining Act.

PAT SWEENEY, Northern Plains Resource Council, stated he knew deep mining was felt to be on its way out; but this is not so, and there is a definite need for this bill. He said the bill was long--42 pages--but needed to insert underground mining in the act. He said state government at the present time does not have power to regulate these mining operations--and it does have definite effect on water pollution.

C. C. McCALL, State Lands, stated this bill would include both coal and uranium deep mines. He said they had 15 permit applications for uranium prospecting in eastern Montana.

The EQC report is exhibit 1.

There were no opponents and no questions.

HJR 53 REP. KEMMIS stated this called for a study by the United States Environmental Protection Agency of the potential air quality impact of using Fort Union coal and lignite extensively. He said we don't yet know what sorts of impact this coal might have. He said the country has burned a lot of eastern coal which has sulphur and nitrogen as well as low in trace elements. The indication is that western coal has a higher concentration of trace elements--and what health effect this might have has been very inadequately studied.

KIT MILLER, Northern Plains Resource Council, stated the Environmental Protection Agency has commenced research along these lines. He said this resolution would help support their efforts.

HB 659 REP. SHELDEN, chief sponsor, stated this bill simply exempted the political subdivisions of the state from bonding requirements of the strip mining regulation act unless required by the board.

DR. S. L. GROFF, Montana Bureau of Mines and Geology, stated their support. He said they will be working for the Department of State Lands and the concept of the department paying us to pay them back.

on a bond seems unnecessary and additional red tape.

LEO BARRY, State Land Department, stated it seemed unnecessary to have one agency bonded to another agency.

OPPONENTS

PAT SWEENEY, Northern Plains Resource Council, stated this does not cover just state agencies; but all federal agencies would also be exempt from bonding requirements. He stated he did not feel that agencies were any better keepers of the land or the environment than the private companies and to exempt them was going beyond the principle of the act. He felt this would create a backdoor to escape bonding. He felt federal agencies should be amended out.

REP. SHELDEN in his rebuttal stated this would apply only to work between state agencies.

Questions by the committee. Rep. Richards mentioned plans by the TVA to acquire Peabody Coal. Rep. Schye stated he never knew of the federal government putting up a bond anyway. The proponents stated they had no objection to the removal of the federal agencies from those exempted and a majority of the committee suggested such wording be worked out. The EQC report is exhibit 2.

HJR 63 REP. RICHARDS, the chief sponsor, stated this resolution was to urge the Bonneville Power Administration to prepare an impact study of the Pacific Northwest Hydro-Thermal planning program. He felt we should not irreversibly commit our resources until we knew the extent of the need for ourselves and our sister states. He passed to the committee members copies of a letter dealing with such an impact study from the governors of Washington and Oregon. This is exhibit 3.

No other proponents or opponents. Questions were asked by the committee.

EXECUTIVE SESSION

HB 650 Rep. Leubeck moved do pass. A roll call vote was taken and the motion carried. Absent were: Reps. Fishbaugh, Day, Huennekens, Meloy, Jim Moore and Jack Moore. Abstaining was Rep. Barrett.

HB 659 Rep. Shelden moved that the bill be amended to remove federal agencies from the exemption. Motion carried with Rep. Schye the only no. Rep. Shelden moved the bill as so amended do pass. Motion carried unanimously--same absent as prior bill.

HJR 52 Rep. Stoltz moved HJR 52 do pass. Motion carried with Rep. Schye and Rep. Ellison voting no, same absent as before.

HJR 53 Rep. Luebeck moved do pass. Motion carried unanimously--with same absent as before.

HJR 63 Rep. Kemmis moved do pass. (Reps. Meloy, Day, Fishbaugh came) Motion carried with absent being Reps. Jim Moore, Jack Moore and Huennekens.

STATE OF MONTANA

EX. 1

Environmental Quality Council

JOHN W. H. 55
EXECUTIVE DIRECTOR

CONTROL STATION HELENA, MT. 59601

GOV. THOMAS L. JONES
DESIGNATED REPRESENTATIVE
G. STEVEN BROWN

SEN. J. H. HARRIS
SEN. J. H. HARRIS
SEN. J. H. HARRIS
SEN. J. H. HARRIS
SEN. J. H. HARRIS

HOUSE MEMBERS
REP. A. L. H. 55
REP. A. L. H. 55
REP. A. L. H. 55
REP. A. L. H. 55
REP. A. L. H. 55

APPOINTED MEMBERS
MR. THOMAS J. JONES
MR. THOMAS J. JONES
MR. THOMAS J. JONES
MR. THOMAS J. JONES
MR. THOMAS J. JONES

February 25, 1975

Prepared For: House Natural Resource Committee

Prepared By: Legislative Unit, Environmental Quality Council

HOUSE BILL 650

House Bill 650 amends the Strip Mine Siting Act (50-1601 to 50-1617, R.C.M., 1947) and the Strip Mining and Reclamation Act (50-1034 to 50-1057, R.C.M., 1947). The amendments place underground mining of coal or uranium under the same law as strip mining of coal or uranium. This bill would allow the Department of State Lands to draw up specific regulations for underground mining activities. There is presently no state regulation of underground mining of coal or uranium.

There is potential underground mineable coal all over eastern Montana. One of the major handicaps of underground mining development of this coal is cost. Strip mining is a cheaper operation. The following table shows the breakdown between underground and strip mineable coal reserves.

Demonstrated Coal Reserve Base On January 1, 1974 by Method of Mining

(Million short tons)

State	Potential Mining Method		Total
	Underground	Surface	
Montana	65,165	42,562	107,727
North Dakota	-----	16,003	16,003
Wyoming	27,554	23,674	51,228
Total U.S.	297,235	136,713	433,948

NAME Patrick Sweeney Bill No. 659-650
ADDRESS 556 Hillsdale - Helena Date 2/25/75
WHOM DO YOU REPRESENT? Northern Plains Resource Council
SUPPORT X650 OPPOSE X659 AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

These things should be considered as the coal is mined. Representative Bradley stated that there has been strong leadership in Montana concerning air pollution standards. She feels it is our duty to consider national impacts.

Senator Galt asked Mr. Ted Schwinden, Department of State Lands, how it would effect the Department.

Mr. Schwinden stated that he is not sure of how it will effect the Department at this time, but he issued opinions which explained a little more of what may be expected by the Department. (See Attachment #2.) Upon passage of this act, Mr. Schwinden said that three professional people would be added to the staff. These three would draft and adopt rules and regulations to determine what constitutes proof of a permit application.

Representative Bradley summarized her points saying that knowledge would be acquired of all impacts before coal is mined in Montana.

CONSIDERATION OF HB 650: To provide for control of surface effects of underground mining operations and the reclamation of lands and waters affected by underground mining.

Representative Vincent, author, stated that this legislation was an effort to amend the Strip Mining Act of 1973. This act doesn't cover any underground mining except for coal and uranium. There are several indications that deep mining of coal is coming to Montana which could have serious effects on the water. The state presently has no controls of this type of underground mining. Rep. Vincent offered a number of amendments. He stated that the major thrust of the bill is to give some environmental protection of the effects of these two particular substances.

Mr. Pat Sweeney, Northern Resource Council, thinks there is an obvious need for this legislation. Presently, there are no regulations to cover the effects of deep mining. It does have a definite effect on water pollution.

Mr. C. C. McCall, State Department of Lands, supports the bill and the amendments.

Senator Colberg asked Mr. McCall what would happen to the few deep ground mines in Montana. Mr. McCall said that they would probably come under these statutes.

CONSIDERATION OF HJR 48: Requesting the Department of Natural Resources and Conservation to conduct a study for the development of statewide soils inventory.

Mr. Leonard Peterson, director of the Montana Association of Conservation District, testified in place of Representative Jack Gunderson, author of HJR 48. Mr. Peterson feels the extreme importance and need for soil surveys in this critical period of development in Montana. (See Attachment #3.)

Mr. John Delano, Montana Railroad Association, pledged his support for HJR 48.

Mr. Peterson stated this was just a study to present before the next legislature to proceed with the right direction.

After the committee members discussed the resolution further, Senator Watt offered an amendment. Senator Watt moved to amend page 2, line 25 following "conduct" strike "detailed" insert "preliminary." The motion was seconded by Senator Manley and carried unanimously. Senator Smith moved to amend page 3, lines 9 and 10, following "data bank. Recommendations" strike "and draft legislation implementing those recommendations"; the motion was seconded by Senator Watt and carried unanimously. Senator Manley further moved to amend page 3, line 7 and 8 following "in Montana" strike "to adequately deal with energy, agricultural production, environmental concerns."; the motion was seconded by Senator Colberg and carried unanimously.

Senator Roskie moved HJR 48 AND AS SO AMENDED, BE CONCURRED IN. The motion was seconded by Senator Smith; it carried unanimously.

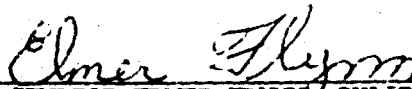
DISCUSSION OF HB 59: Senator Watt moved that the committee report on HB 59 be held in committee. He wanted to discuss this bill further. The motion was seconded by Senator Colberg and carried unanimously.

DISPOSITION OF HB 650: Senator Watt moved amendments to HB 650 be adopted. The motion was seconded by Senator Colberg and carried unanimously. (See standing committee report form for amendments.) Senator Smith moved HB 650 AND AS SO AMENDED, BE CONCURRED IN. The motion was seconded by Senator Colberg and carried unanimously. Senator Colberg volunteered to carry this bill on the floor.

DISPOSITION OF HB 379: Senator Galt moved HB 379 do not pass. The motion was seconded by Senator Manley. Senator Watt moved a substitute motion that HB 379 BE TABLED. The motion was seconded by Senator Manley. It was Senator Watt's opinion that even though HB 379 was not practical, Representative Bradley is trying to present new ideas. He felt she should be commended for her ideas. The motion carried with Senator Colberg voting no.

DISPOSITION OF HB 522: Senator Manley moved that HB 522 BE CONCURRED IN. The motion was seconded by Senator Galt and carried unanimously.

ADJOURNMENT: There being no further business to discuss, Senator Flynn adjourned the meeting at 11:10 a.m.



SENATOR ELMER FLYNN, CHAIRMAN

ROLL CALL

Natural Resources and Fish & Game COMMITTEE

44th LEGISLATIVE SESSION — 1975

Date 3-15-

NAME	PRESENT	ABSENT	EXCUSED
FLYNN, Elmer, Chairman	✓		
COLBERG, Richard A., V. Ch.	✓		
JERGESON, Greg	✓		
MANLEY, John E.	✓		
WATT, Robert D.	✓		
GALT, Jack E.	✓		
ROSKIE, George F.	✓		
SMITH, Edward B.	✓		

PISI AND TVE

DATE 3-15-75

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

Mr. _____

We, your committee on _____
having had under consideration House Bill No. 650, respectfully report as follows: That House Bill No. 650, introduced bill, be amended as follows:

1. Amend the title, page 1, line 4.

Following: "SECTIONS"

Insert: "50-1601"

2. Amend the title, page 1, line 5.

Following: "THROUGH"

Strike: "50-1609"

Insert: "50-1610"

Following: "50-1616"

Strike: "50-1035"

Insert: "50-1034"

3. Amend the title, page 1, line 6.

Following: "50-1046,"

Insert: "50-1052,"

Following: "50-1053,"

Insert: "50-1054,"

4. Amend page 1, following line 11.

Insert: "Section 1. Section 50-1601, R.C.M. 1947, is to read as follows:

"50-1601. Short title. This act shall be known and may be cited as "The Strip and Underground Mine Act.""

Renumber: Subsequent sections.

5. Amend page 3, Section 2(4), line 3.

Following: "New"

Strike: "strip"

Following: "means a strip"

Insert: "or underground"

6. Amend page 3, Section 2(4), line 6.

Following: "operation"

Insert: "or their respective facilities"

7. Amend page 3, Section 2(5), line 11.

Following: "means"

Strike: "these"

Insert: "all"

8. Amend page 3, Section 2(5), lines 17 and 18.
Following: "other"
Strike: "similar work"
Insert: "associated facilities"
9. Amend page 4, Section 2(10), lines 11 through 18.
Strike: Subsection (10) in its entirety
Renumber: Subsequent subsection.
10. Amend page 9, Section 6(4), line 2.
Following: "surface"
Insert: "and subsurface"
11. Amend page 9, Section 6(4), line 4.
Following: "facilities,"
Insert: "subsidence, stabilization requirements, water controls."
12. Amend page 11, following line 9.
Insert: "Section 10. Section 50-1610, R.C.M. 1947, is amended to read as follows:
 '50-1610. Receipts paid into special fund--use of fund. (1) All fees, forfeit funds, and other moneys available or paid to the department under the provisions of this act shall be placed in the state treasury and credited to a special agency account to be designated as the ~~strip~~ mining and reclamation fund. This fund shall be available to the department by appropriation and shall be expended for the administration and enforcement of this act and for the reclamation and revegetation of land and the rehabilitation of water affected by any mining operations. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purposes of this act until expended or until appropriated by subsequent legislative action.'"
Renumber: Subsequent sections.
13. Amend page 12, following line 25.
Insert: "Section 14. Section 50-1034, R.C.M. 1947, is amended to read as follows:
 '50-1034. Short title. This act shall be known as the Montana Strip Mining and Underground Mine Reclamation Act.'"
Renumber: Subsequent sections.
14. Amend page 14, Section 12(1), line 7.
Following: "plan for"
Strike: "surface"
15. Amend page 15, Section 13(2), line 4.
Following: "process of"
Strike: "strip"

16. Amend page 16, Section 13(5), line 2.
Following: "facilities,"
Strike: "tailings, and"
Insert: "waste deposition areas,"
17. Amend page 16, Section 13(9), line 19.
Following: "open pit"
Insert: ", "
18. Amend page 17, Section 13(14), line 13.
Following: "backfilling,"
Insert: "subsidence stabilization, water controls,"
19. Amend page 18, Section 13, line 20.
Following: "source."
Strike: ""
Insert: "(22) 'subsidence' means a vertically downward movement of overburden materials resulting from the actual mining of an underlying mineral deposit or associated underground excavations: ""
20. Amend page 19, Section 15(2), line 24.
Following: "operation,"
Insert: "subsidence stabilization, water controls,"
21. Amend page 20, Section 15(6), line 12.
Following: "mining"
Insert: "and to"
22. Amend page 20, Section 16, line 22.
Following: "strip"
Insert: "or underground"
23. Amend page 20, Section 16, line 25.
Following: "strip"
Insert: "or underground"
24. Amend page 21, Section 16, line 12.
Following: "50-1042"
Strike: "and"
Insert: ", "

Following: "50-1046"
Insert: ", and 50-1050"
25. Amend page 23, Section 16(2)(h), line 5.
Following: "strip"
Insert: "or underground"
26. Amend page 24, Section 16(2)(j), line 7.
Following: "showing the"
Insert: "proposed"
27. Amend page 25, Section 16(3)(f), line 15.
Following: "show the"
Insert: "final surface and underground water"
28. Amend page 25, Section 16(3)(f), line 16.
Following: "directional"
Insert: "and volume"

43. Amend page 34, Section 19(2)(c), line 22.

Following: "noise,"

Strike: "surface"

44. Amend page 36, Section 20, lines 14 and 15.

Following: "required"

Strike: "to obtain a surface"

Insert: "where strip"

45. Amend page 26, Section 20, line 15.

Following: "mining"

Strike: "permit"

Insert: "is proposed"

46. Amend page 37, Section 20(4), line 19.

Following: "grading,"

Insert: "subsidence stabilization, water control,"

47. Amend page 37, Section 20(4), line 21.

Following: "backfilling,"

Insert: "subsidence stabilization, sealing,"

48. Amend page 37, Section 20(5), line 24.

Following: "grading,"

Insert: "subsidence stabilization, water controls,"

49. Amend page 38, Section 21, line 23.

Following: "following"

Strike: "filling"

Insert: "grading"

50. Amend page 39, Section 21, line 24.

Strike: "stripped"

Insert: "disturbed"

51. Amend page 40, Section 22, line 4.

Following: "backfilling"

Insert: "subsidence stabilization"

52. Amend page 40, following line 9.

Insert: "Section 26. Section 50-1052, R.C.M. 1947, is amended to read as follows:

"50-1052. Receipts paid into special fund--un- fund. All fees, forfeit funds, and other moneys or paid to the department under the provisions of this act shall be placed in the state treasury and credited to a special agency account to be designated as the mining and reclamation fund. This fund shall be turned over to the department by appropriation and shall be available for the administration and enforcement of this act and for the reclamation and revegetation of land and the rehabilitation of water affected by any mining operation. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not be expended but shall be carried forward for the purposes of this act until expended or until appropriated by subsequent legislative action."

Renumber: Subsequent sections.

29. Amend page 26, Section 16(3)(1), line 12.
Following: "by the"
Strike: "strip"
30. Amend page 26, Section 16(4), line 21.
Following: "backfilling,"
Insert: "subsidence stabilization, water control,"
31. Amend page 27, Section 16(5), line 15.
Following: "reduction,"
Insert: "subsidence stabilization, water controls,"
32. Amend page 30, Section 18(1), line 13.
Following: "prospecting"
Insert: ", "
Strike: "or"
33. Amend page 30, Section 18(1), line 19.
Following: "grading,"
Insert: "subsidence stabilization, water controls,"
34. Amend page 32, Section 18(3), line 1.
Following: "prospecting"
Insert: ", "
Strike: "or"
35. Amend page 32, Section 18(3), line 4.
Following: "streambeds,"
Insert: "subsidence,"
36. Amend page 32, Section 18(4), line 13.
Following: "prospecting"
Insert: ", "
Strike: "or"
37. Amend page 33, Section 19(1), line 1.
Following: "reduction,"
Insert: "subsidence stabilization, water control,"
38. Amend page 33, Section 19(1), line 4.
Following: "backfilling,"
Insert: "subsidence stabilization, water control,"
39. Amend page 33, Section 19(1), line 8.
Following: "erosion,"
Insert: "subsidence,"
40. Amend page 34, Section 19(2), line 5.
Following: "backfilling,"
Insert: "subsidence stabilization, water controls,"
41. Amend page 34, Section 19(2)(b), line 13.
Following: "rules,"
Insert: "tunnels, shafts, other opening or"
42. Amend page 34, Section 19(2)(c), line 15.
Following: "runoff"
Insert: "or underdrainage"

53. Amend page 40, following line 23.

Insert:

"Section 26. Section 50-1054, R.C.M. 1047, is amended to read as follows:

'50-1054. Reclamation of lands after land forfeited. The board may reclaim, in keeping with the provisions of this act, any affected lands with respect to which the land has been forfeited and to use monies appropriated for the strip mining and reclamation fund for such purposes. Subsequent sections.

Renumber:

54. Amend page 42, Section 24(4), line 11.

Strike: "surface"

55. Amend page 42, Section 24(4), line 15.

Strike: "surface"

HOUSE BILL NO. 650

INTRODUCED BY VINCENT, BRADLEY, SHELLEN,

FAGG, HUENNEKENS, DUSSAULT, STOLTZ, MELOY, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
50-1601, 50-1602 THROUGH ~~50-1609~~ 50-1610, 50-1614, 50-1615,
50-1616, ~~50-1035~~ 50-1034 THROUGH 50-1039, 50-1041 THROUGH
50-1046, 50-1052, 50-1053, 50-1054, AND 50-1055, R.C.M.
1947, TO PROVIDE FOR CONTROL OF SURFACE EFFECTS OF
UNDERGROUND MINING OPERATIONS AND THE RECLAMATION OF LANDS
AND WATERS AFFECTED BY UNDERGROUND MINING."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 50-1601, R.C.M. 1947, IS AMENDED TO
READ AS FOLLOWS:

"50-1601. Short title. This act shall be known and may
be cited as "The Strip and Underground Mine Siting Act.""

Section 2. Section 50-1602, R.C.M. 1947, is amended to
read as follows:

"50-1602. Policy of state -- purposes of act --
exercise of general police power. (1) It is the policy of
this state to provide adequate remedies for the protection
of the environmental life support system from degradation
and provide adequate remedies to prevent unreasonable
depletion and degradation of natural resources.

(2) It is the purpose of this act:

(a) to vest in the department the authority to review
new strip mine and new underground mine site locations and
reclamation plans and either approve or disapprove such
locations and plans and to exercise general administration
and enforcement of this act; and

(b) to vest in the board the authority to adopt rules,
to suspend and revoke permits, and to conduct hearings; and

(c) to satisfy the requirement of article II, section
2 of the constitution of this state, that all lands
disturbed by the taking of natural resources be reclaimed;
and

(d) to insure that adequate information is available
on areas proposed for strip mining or underground mining so
that mining and reclamation plans may be properly formulated
to accommodate areas that are suitable for strip mining or
underground mining.

(3) This act is deemed to be an exercise of the
general police power to provide for the health and welfare
of the people."

Section 3. Section 50-1603, R.C.M. 1947, is amended to
read as follows:

"50-1603. Definitions. When used in this act, unless a
different meaning clearly appears from the context:

(1) "Operation" means all of the premises, facilities,

railroad loops, roads, power lines, and equipment used in the process of producing and removing mineral from a designated strip mine or underground mine area.

(2) "Board" means the board of land commissioners as provided for in article X, section 4 of the constitution of this state.

(3) "Department" means the department of state lands provided for in Title 82A, chapter 11.

(4) "New strip mine" means a strip OR UNDERGROUND mining operation proposed for an area of land which the department determines, because of distance from an existing strip mine or underground mine operation OR THEIR RESPECTIVE FACILITIES or because of important differences in topography, soils, wildlife, geologic structure, aquifers or vegetation from an existing strip mine or underground mine operation, does not constitute an expansion of an existing operation.

(5) "Preparatory work" means ~~these~~ ALL on site disturbances, excluding prospecting, associated with the initiation of a new strip mine or underground mine, including but not limited to the construction of railroad spurs or loops, buildings to house mining operations, roads, storage and train load-out facilities, transmission lines, erection of draglines and loading shovels and other similar work ASSOCIATED FACILITIES.

(6) "Strip mining" means any part of the process followed in the production of mineral by the open cut method including mining by the auger method or any similar method which penetrates a mineral deposit and removes mineral directly through a series of openings made by a machine which enters the deposit from a surface excavation, or any other method or process in which the strata or overburden is removed or displaced in order to recover the mineral.

(7) "Mineral" means mineral as defined in section 50-1036 (1), R.C.M. 1947.

(8) "Person" means a person, partnership, corporation, association or other legal entity, or any political subdivision or agency of the state.

(9) "Operator" means a person who intends to operate a new strip mine or new underground mine involving the removal of more than ten thousand (10,000) cubic yards of mineral or overburden.

~~(10) "New underground mine" means an underground mining operation proposed for an area of land which the department determines, because of distance from an existing strip mine operation or underground mine operation or because of important differences in topography, soils, wildlife, geologic structure, aquifers or vegetation from an existing strip mine operation or underground mine operation does not constitute an expansion of an existing operation.~~

~~{11}~~(10) "Underground mining" means any part of the process followed in the production of a mineral such that vertical or horizontal shafts, slopes, drifts or incline planes connected with excavations penetrating the mineral stratum or strata are utilized."

Section 4. Section 50-1604, R.C.M. 1947, is amended to read as follows:

"50-1604. Orders and rules of board -- hearings. The board:

(1) shall issue after an opportunity for a hearing, orders requiring an operator to adopt the remedial measures necessary to comply with this act and rules adopted under this act;

(2) shall issue after an opportunity for a hearing, a final order directing the department to revoke a permit, when the requirements set forth by the notice of noncompliance, order of suspension, or an order of the board requiring remedial measures have not been complied with according to the terms herein;

(3) shall adopt after an opportunity for a hearing, general rules pertaining to new strip mines and to new underground mines and preparatory work to accomplish the purposes of this act;

(4) shall conduct hearings under provisions of this act or rules adopted by the board."

Section 5. Section 50-1605, R.C.M. 1947, is amended to read as follows:

"50-1605. Administration -- functions of department. The department:

(1) shall exercise general supervision, administration, and enforcement of this act and all rules and orders adopted under this act;

(2) shall order the suspension of any permit for failure to comply with this act, any rule adopted under this act or permit issued pursuant to this act;

(3) shall order the halting of any operation that is started without first having secured a permit as required by this act;

(4) shall make investigations and inspections necessary to insure compliance with this act;

(5) shall encourage and conduct investigations, research, experiments and demonstrations, and collect and disseminate information relating to new strip mines, new underground mines and reclamation of lands and waters affected by preparatory work;

(6) shall adopt rules with respect to the filing of reports, the issuance of permits and other matters of procedure and administration."

Section 6. Section 50-1606, R.C.M. 1947, is amended to read as follows:

*50-1606. Permit required to engage in preparatory work. No person may commence preparatory work until the operator shall have first obtained from the department a mine site location permit for a new strip mine or a new underground mine, or a permit under chapter 10, Title 50, R.C.M. 1947, if the application for such permit under Title 50 includes an appropriate long range mining plan acceptable to the department."

Section 7. Section 50-1607, R.C.M. 1947, is amended to read as follows:

*50-1607. Application for permit — contents — permit authorization — notification — fee — bond. (1) A person desiring a mine site location permit shall file with the department an application which shall contain a reclamation plan for any preparatory work and such other information the department deems necessary to determine if the proposed area to be affected by the operation is appropriate for the location of a new strip mine or a new underground mine. The department may require any information included in, but not limited to, an application for a strip mining permit or underground mining permit as required by chapter 10, Title 50, R.C.M. 1947.

(2) A mine site location permit shall authorize the applicant to engage in preparatory work upon the area described in the application and designated in the permit

for a period of one (1) year from the date of issuance and is renewable until the applicant has applied for and received a strip mining or underground mining permit in accordance with chapter 10, Title 50, R.C.M. 1947.

(3) The department shall notify the applicant within three hundred sixty-five (365) days of receipt of a complete application if the proposed site is an acceptable location for development of a new strip mine or a new underground mine. If the site is approved, the department shall issue the applicant a mine site location permit. If the location is not approved, the department shall notify the applicant in writing, setting forth reasons why the location is not acceptable. The department shall also notify the applicant within three hundred sixty-five (365) days of receipt of a complete application whether the proposed reclamation plan is or is not acceptable. If the plan is not acceptable, the department shall set forth the reasons for nonacceptance of the plan. It may propose modifications, delete areas, or reject the entire plan.

(4) A fee of fifty dollars (\$50) shall be paid before the mine site location permit required in this act may be issued. The operator shall also file with the department a bond payable to the state of Montana with surety satisfactory to the department in the penal sum to be determined by the board (on the recommendation of the

1 commissioner) of not less than two hundred dollars (\$200)
 2 nor more than ten thousand dollars (\$10,000) for each acre
 3 or fraction thereof of the area of land to be disturbed by
 4 preparatory work, with a minimum bond of five thousand
 5 dollars (\$5,000), conditioned upon the faithful performance
 6 of the requirements set forth in this act and of the rules
 7 of the board. In determining the amount of the bond within
 8 the above limits, the board shall take into consideration
 9 the character and nature of the surface AND SUBSURFACE
 10 disturbances, the future suitable use of the land involved
 11 and the cost of removing or burying facilities, SUBSIDENCE
 12 STABILIZATION, WATER CONTROLS, backfilling, grading,
 13 topsoiling, and reclamation to be required. Notwithstanding
 14 the above limits the bond may not be less than the total
 15 estimated cost to the state of completing the work described
 16 in the reclamation plan."

17 Section 8. Section 50-1608, R.C.M. 1947, is amended to
 18 read as follows:

19 "50-1608. Refusal of permit — grounds. (1) The
 20 department may not issue a permit under this act if it finds
 21 that a new strip mine or a new underground mine is not
 22 consistent with the purposes and policies of this act.

23 (2) The department shall not approve a new strip
 24 mining site, a new underground mining site or preparatory
 25 work site for any areas of land or water included in the

1 application if the department determines that the area could
 2 not be approved under the criteria specified in Section
 3 50-1042, R.C.M. 1947.

4 (3) The department shall not issue a permit under this
 5 act if a proposed reclamation plan does not meet the
 6 requirements of Title 50, chapter 10, R.C.M. 1947."

7 Section 9. Section 50-1609, R.C.M. 1947, is amended to
 8 read as follows:

9 "50-1609. Notice of noncompliance — suspension of
 10 permits — conditions required for reinstatement of permits.

11 (1) If any of the requirements of this act or rules or
 12 orders of the department and the board have not been
 13 complied with within the time limits set by the department
 14 or the board or by this act, the department shall serve a
 15 notice of noncompliance on the operator, or where found
 16 necessary, the commissioner shall order the suspension of a
 17 permit. The notice or order shall be handed to the operator
 18 in person or served by registered mail addressed to the
 19 permanent address shown on the application for a permit. The
 20 notice of noncompliance or order of suspension shall specify
 21 in what respects the operator has failed to comply with this
 22 act or the rules or orders of the department and the board.
 23 If the operator has not complied with the requirement set
 24 forth in the notice of noncompliance or order of suspension
 25 within time limits set therein, the permit may be revoked by

order of the board and the performance bond forfeited to the department.

(2) Any additional strip mining, or underground mining, or mine site location permits held by an operator whose mine site location permit has been revoked shall be suspended and the operator is not eligible to receive another permit or to have the suspended permits reinstated until he has complied with all the requirements of this act in respect to former permits issued him. An operator who has forfeited a bond is not eligible to receive another permit unless the land for which the bond was forfeited has been reclaimed without cost to the state, or the operator has paid into the reclamation account a sum together with the value of the bond, the board finds adequate to reclaim the lands. The department may not issue any additional permits to an operator who has repeatedly been in noncompliance or violation of this act."

SECTION 10. SECTION 50-1610, R.C.M. 1947, IS AMENDED TO READ AS FOLLOWS:

"50-1610. Receipts paid into special fund—use of fund. (1) All fees, forfeit funds, and other moneys available or paid to the department under the provisions of this act shall be placed in the state treasury and credited to a special agency account to be designated as the strip mining and reclamation fund. This fund shall be available to

the department by appropriation and shall be expended for the administration and enforcement of this act and for the reclamation and revegetation of land and the rehabilitation of water affected by any mining operations. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purposes of this act until expended or until appropriated by subsequent legislative action."

Section 11. Section 50-1614, R.C.M. 1947, is amended to read as follows:

"50-1614. Submitted information may be accepted to meet strip mining or underground mining permit requirements. The department may choose to accept information submitted under this act to the extent it is applicable and relevant as satisfying the requirements of chapter 10, Title 50."

Section 12. Section 50-1615, R.C.M. 1947, is amended to read as follows:

"50-1615. Termination of permit. A mine site location permit granted by the department in accordance with the provisions of this act shall remain in full force and effect until the provisions of the permit are complied with and the bond is released, except that those areas of land covered by a mine site location permit for which a strip mining or an underground mining permit is granted pursuant to the provisions of chapter 10, Title 50, shall be released from

1 the terms and provisions of the mine site location permit."

2 Section 13. Section 50-1616, R.C.M. 1947, is amended
3 to read as follows:

4 "50-1616. Effect of strip mine or underground mine
5 siting permit on subsequent strip mining or underground
6 mining permits. When the department has sufficient
7 information to approve or disapprove a mine site location
8 permit application on either the entire area being
9 considered for a mine site location permit or a portion
10 thereof on the grounds listed in section 50-1042 (2) and
11 (4), it shall so state in a written statement to the
12 operator. This decision is binding on the department with
13 regard to strip mining or underground mining permit
14 applications as specified in chapter 10, Title 50, R.C.M.
15 1947, unless:

16 (1) new information is submitted or obtained in
17 compliance with chapter 10, Title 50, which indicates a
18 situation not existing or known at the time of the issuance
19 of a permit under this act;

20 (2) an application under this act misrepresented
21 information related to the criteria;

22 (3) a situation develops because of strip mining or
23 underground mining operations which was not in existence at
24 the time of the issuance of a permit under this act."

25 SECTION 14. SECTION 50-1034, R.C.M. 1947, IS AMENDED

1 TO READ AS FOLLOWS:

2 "50-1034. Short title. This act shall be known and may
3 be cited as "The Montana Strip Mining and Underground Mine
4 Reclamation Act.""

5 Section 15. Section 50-1035, R.C.M. 1947, is amended
6 to read as follows:

7 "50-1035. Policy of state -- findings. It being the
8 declared policy of this state and its people

9 --to maintain and improve the state's clean and
10 healthful environment for present and future generations,

11 --to protect its environmental life-support system from
12 degradation,

13 --to prevent unreasonable degradation of its natural
14 resources,

15 --to restore, enhance, and preserve its scenic,
16 historic, archeologic, scientific, cultural, and
17 recreational sites,

18 --to demand effective reclamation of all lands
19 disturbed by the taking of natural resources, and

20 --to require the legislature to provide for proper
21 administration and enforcement, create adequate remedies,
22 and set effective requirements and standards (especially as
23 to reclamation of disturbed lands) in order to achieve the
24 aforementioned objectives,

25 the legislature hereby finds and declares:

1 (1) That, in order to achieve the aforementioned
 2 policy objectives, promote the health and welfare of the
 3 people, control erosion and pollution, protect domestic
 4 stock and wildlife, preserve agricultural and recreational
 5 productivity, save cultural, historic, and aesthetic values,
 6 and assure a long-range dependable tax base, it is
 7 reasonably necessary to require, after the effective date of
 8 this act, that all strip mining and underground mining
 9 operations be limited to those for which annual permits are
 10 granted, that no permit be issued until the operator
 11 presents a comprehensive plan for ~~surface~~ reclamation and
 12 restoration, together with an adequate performance bond, and
 13 the plan is approved, that certain other things must be
 14 done, that certain remedies are available, and that certain
 15 lands because of their unique or unusual characteristics may
 16 not be strip mined or underground mined under any
 17 circumstances, all as more particularly appears in the
 18 remaining provisions of this act.

19 (2) That this act be deemed to be an exercise of the
 20 authority granted in the Montana constitution, as adopted
 21 June 6, 1972, and in particular, a response to the mandate
 22 expressed in article II thereof, and also be deemed to be an
 23 exercise of the general police power to provide for the
 24 health and welfare of the people."

25 Section 16. Section 50-1036, R.C.M. 1947, is amended

1 to read as follows:

2 "50-1036. Definitions. Unless the context requires
 3 otherwise in this act:

4 (1) "mineral" means coal and uranium;

5 (2) "overburden" means all of the earth and other
 6 materials which lie above a natural mineral deposit and also
 7 means such earth and other material after removal from their
 8 natural state in the process of ~~strip~~ mining;

9 (3) "strip mining" means any part of the process
 10 followed in the production of mineral by the open cut method
 11 including mining by the auger method or any similar method
 12 which penetrates a mineral deposit and removes mineral
 13 directly through a series of openings made by a machine
 14 which enters the deposit from a surface excavation, or any
 15 other mining method or process in which the strata or
 16 overburden is removed or displaced in order to recover the
 17 mineral;

18 (4) "prospecting" means the removal of overburden,
 19 core drilling, construction of roads or any other
 20 disturbance of the surface for the purpose of determining
 21 the location, quantity, or quality of a natural mineral
 22 deposit;

23 (5) "area of land affected" means the area of land
 24 from which overburden is to be or has been removed and upon
 25 which the overburden is to be or has been deposited and

1 includes all land overlying any tunnels, shafts or other
 2 excavations used to extract the mineral, lands affected by
 3 the construction of new railroad loops and roads or the
 4 improvement or use of existing railroad loops and roads to
 5 gain access and to haul the mineral, processing or other
 6 mine associated facilities, tailings, and WASTE DEPOSITION
 7 AREAS, treatment ponds, and any other surface or subsurface
 8 disturbance associated with strip mining or underground
 9 mining;

10 (6) "operation" means all of the premises, facilities,
 11 railroad loops, roads, and equipment used in the process of
 12 producing and removing mineral from a designated strip mine
 13 or underground mine area, or prospecting for the purpose of
 14 determining the location, quality, or quantity of a natural
 15 mineral deposit;

16 (7) "operator" means a person engaged in strip mining
 17 or underground mining who removes or intends to remove more
 18 than ten thousand (10,000) cubic yards of mineral or
 19 overburden;

20 (8) "person" means a person, partnership, corporation,
 21 association, or other legal entity, or any political
 22 subdivision, or agency of the state;

23 (9) "method of operation" means the method or manner
 24 by which the cut, ~~or~~ open pit, shaft, or excavation is made,
 25 the overburden is placed or handled, water is controlled and

1 other acts are performed by the operator in the process of
 2 uncovering and removing the minerals that affect the
 3 reclamation of the area of land affected;

4 (10) "topsoil" means the unconsolidated mineral matter
 5 naturally present on the surface of the earth that has been
 6 subjected to and influenced by genetic and environmental
 7 factors of parent material, climate, macro- and
 8 micro-organisms, and topography, all acting over a period of
 9 time, and that is necessary for the growth and regeneration
 10 of vegetation on the surface of the earth;

11 (11) "department" means the department of state lands
 12 provided for in Title 82A, chapter 11;

13 (12) "commissioner" means the commissioner of state
 14 lands provided for in section 82A-1104;

15 (13) "board" means the board of land commissioners
 16 provided for in article X, section 4 of the constitution of
 17 this state;

18 (14) "reclamation" means backfilling, SUBSIDENCE
 19 STABILIZATION, WATER CONTROL, grading, highwall reduction,
 20 topsoiling, planting, revegetation, and other work to
 21 restore an area of land affected by strip mining or
 22 underground mining under a plan approved by the department;

23 (15) "degree" means from the horizontal, and in each
 24 case is subject to a tolerance of five percent (5%) error;

25 (16) "contour strip mining" means that strip mining

1 method commonly carried out in areas of rough and hilly
2 topography in which the coal or mineral seam outcrops along
3 the side of the slope and entrance is made to the seam by
4 excavating a bench or table cut at and along the site of the
5 seam outcropping with the excavated overburden commonly
6 being cast down the slope below the mineral seam and the
7 operating bench;

8 (17) "bench" means the ledge, shelf, table, or terraces
9 formed in the contour method of strip mining;

10 (18) "fill bench" means that portion of a bench or
11 table which is formed by depositing overburden beyond or
12 down slope from the cut section as formed in the contour
13 method of strip mining;

14 (19) "abandoned" means an operation where no mineral is
15 being produced and where the department determines that the
16 operation will not continue or resume.

17 (20) "underground mining" means any part of the process
18 followed in the production of a mineral such that vertical
19 or horizontal shafts, slopes, drifts, or incline planes
20 connected with excavations penetrating the mineral stratum
21 or strata are utilized;

22 (21) "aquifer" means any geologic formation or natural
23 zone beneath the earth's surface that contains or stores
24 water and transmits it from one point to another in
25 quantities which permit or have the potential to permit

1 economic development as a water source.

2 (22) "SUBSIDENCE" MEANS A VERTICALLY DOWNWARD MOVEMENT
3 OF OVERBURDEN MATERIALS RESULTING FROM THE ACTUAL MINING OF
4 AN UNDERLYING MINERAL DEPOSIT OR ASSOCIATED UNDERGROUND
5 EXCAVATIONS."

6 Section 17. Section 50-1037, R.C.M. 1947, is amended
7 to read as follows:

8 "50-1037. Orders and rules of board — hearings. The
9 board:

10 (1) shall issue after an opportunity for a hearing,
11 orders requiring an operator to adopt the remedial measures
12 necessary to comply with this act and rules adopted under
13 this act;

14 (2) shall issue after an opportunity for a hearing, a
15 final order directing the department to revoke a permit,
16 when the requirements set forth by the notice of
17 noncompliance, order of suspension, or an order of the board
18 requiring remedial measures have not been complied with
19 according to the terms herein;

20 (3) shall adopt after an opportunity for a hearing,
21 general rules pertaining to strip mining and to underground
22 mining to accomplish the purposes of this act;

23 (4) shall conduct hearings under provisions of this
24 act or rules adopted by the board."

25 Section 18. Section 50-1038, R.C.M. 1947, is amended

1 to read as follows:

2 "50-1038. Administration — functions of department.
3 The department:

4 (1) shall exercise general supervision,
5 administration, and enforcement of this act and all rules
6 and orders adopted under this act;

7 (2) shall examine and pass upon all plans and
8 specifications submitted by the operator for the method of
9 operation, SUBSIDENCE STABILIZATION, WATER CONTROL,
10 backfilling, grading, highwall reduction, topsoiling and for
11 the reclamation of the area of land affected by his
12 operation;

13 (3) shall order the suspension of any permit for
14 failure to comply with this act or any rule adopted under
15 this act;

16 (4) shall order the halting of any operation that is
17 started without first having secured a permit as required by
18 this act;

19 (5) shall make investigations and inspections
20 necessary to insure compliance with this act;

21 (6) may encourage and conduct investigations,
22 research, experiments and demonstrations, and collect and
23 disseminate information relating to strip mining AND TO
24 underground mining and reclamation of lands and waters
25 affected by strip mining and underground mining;

1 (7) may adopt rules with respect to the filing of
2 reports, the issuance of permits and other matters of
3 procedure and administration."

4 Section 19. Section 50-1039, R.C.M. 1947, is amended
5 to read as follows:

6 "50-1039. Permit required to engage in strip mining OR
7 underground mining — application for permit — contents —
8 fee — bond. (1) An operator may not engage in strip OR
9 UNDERGROUND mining without having first obtained from the
10 department a permit designating the area of land affected by
11 the operation. The permit shall authorize the operator to
12 engage in strip OR UNDERGROUND mining upon the area of land
13 described in his application and designated in the permit
14 for a period of one (1) year from the date of its issuance.
15 Such permit shall be renewable from year to year thereafter
16 upon application to the department at least thirty (30) but
17 not more than sixty (60) days prior to the renewal date so
18 long as the operator is in compliance with the requirements
19 of this act, the rules hereunder, and the reclamation plan
20 provided for in section 40-~~[50-1043]~~ ~~of this act~~, and agrees
21 to comply with all applicable laws and rules in effect at
22 the time of renewal. Such renewal shall further be subject
23 to the denial provisions of sections 9 ~~and 13~~ ~~[50-1042, and~~
24 ~~50-1046]~~ ~~of this act~~ AND 50-1050.

25 (2) An operator desiring a permit shall file an

1 application which shall contain a complete and detailed plan
2 for the mining, reclamation, revegetation, and
3 rehabilitation of the land and water to be affected by the
4 operation. Such plan shall reflect thorough advance
5 investigation and study by the operator and shall include
6 all known or readily discoverable past and present uses of
7 the land and water to be affected and the approximate
8 periods of such use and shall state:

9 (a) the location and area of land to be affected by
10 the operation, with a description of access to the area from
11 the nearest public highways;

12 (b) the names and addresses of the owners of record of
13 the surface of the area of land to be affected by the permit
14 and the owners of record of all surface area within one-half
15 (.5) mile of any part of the affected area;

16 (c) the names and addresses of the present owners of
17 record of all subsurface minerals in the land to be
18 affected;

19 (d) the source of the applicant's legal right to mine
20 the mineral on the land affected by the permit;

21 (e) the permanent and temporary post-office addresses
22 of the applicant;

23 (f) whether the applicant or any person associated
24 with the applicant holds or has held any other permits under
25 this act, and an identification of those permits;

1 (g) whether the applicant is in compliance with
2 ~~subsection (2) of section 47-50-1050~~ and whether every
3 officer, partner, director, or any individual owner of
4 record or beneficially (alone or with associates) if known,
5 ten percent (10%) or more of any class of stock of the
6 applicant, is subject to any of the provisions of ~~subsection~~
7 ~~(2) of section 47-50-1050~~ and he shall so certify, and
8 whether any of the foregoing parties or persons have ever
9 had a strip mining or underground mining license or permit
10 issued by any other state or federal agency revoked, or have
11 ever forfeited a strip mining or underground mining bond or
12 a security deposited in lieu of a bond and if so, a detailed
13 explanation of the facts involved in each case must be
14 attached;

15 (h) the names and addresses of any persons who are
16 engaged in strip or underground mining activities on behalf
17 of the applicant;

18 (i) the annual rainfall and the direction and average
19 velocity of the prevailing winds in the area where the
20 applicant has requested a permit;

21 (j) the results of any test borings or core samplings
22 which the applicant or his agent has conducted on the land
23 to be affected, including the nature and the depth of the
24 various strata or overburden and topsoil, the quantities and
25 location of subsurface water and its quality, the thickness

1 of any mineral seam, an analysis of the chemical properties
 2 of such minerals, including the acidity, sulphur content,
 3 and trace mineral elements of any coal seam, as well as the
 4 British thermal unit (B.T.U.) content of such seam, and an
 5 analysis of the overburden, including topsoil. If test
 6 borings or core samplings are submitted, each permit
 7 application shall contain two (2) copies each of two (2)
 8 sets of geologic cross-sections accurately depicting the
 9 known geologic makeup beneath the surface of the affected
 10 land. Each set shall depict subsurface conditions at five
 11 hundred (500) foot intervals across the surface and shall
 12 run at a ninety (90) degree angle to the other set unless
 13 the department determines that closer intervals are
 14 required. Each cross-section shall depict the thickness and
 15 geological character of all known strata beginning with the
 16 top soil; in addition, each application for an underground
 17 mining permit shall be accompanied by cross-sections and
 18 maps showing the PROPOSED underground locations of all
 19 shafts, entries, and haulageways or other excavations to be
 20 excavated during the permit year. These cross-sections
 21 shall also include all existing shafts, entries and
 22 haulageways.

23 (k) the name and date of a daily newspaper of general
 24 circulation within the county in which the applicant has
 25 prominently published an announcement of his application for

1 a strip mining or underground mining permit, and a detailed
 2 description of the area of land to be affected should a
 3 permit be granted;

4 (1) such other or further information as the
 5 department may require.

6 (3) The application for a permit shall be accompanied
 7 by two (2) copies of all maps meeting the requirements of
 8 the subsections below. The maps shall:

9 (a) identify the area to correspond with the
 10 application;

11 (b) show any adjacent deep mining or surface mining
 12 and the boundaries of surface properties and names of owners
 13 of record of the affected area and within one thousand
 14 (1,000) feet of any part of the affected area;

15 (c) show the names and locations of all streams,
 16 creeks, or other bodies of water, roads, buildings,
 17 cemeteries, oil and gas wells, and utility lines on the area
 18 of land affected and within one thousand (1,000) feet of
 19 such area;

20 (d) show by appropriate markings the boundaries of the
 21 area of land affected, any cropline of the seam or deposit
 22 of mineral to be mined, and the total number of acres
 23 involved in the area of land affected;

24 (e) show the date on which the map was prepared and
 25 the north point;

1 (f) show the FIRAL SURFACE AND UNDERGROUND WATER
 2 drainage plan on and away from the area of land affected.
 3 This plan shall indicate the directional AND VOLUME flow of
 4 water, constructed drainways, natural waterways used for
 5 drainage, and the streams or tributaries receiving the
 6 discharge;

7 (g) show the proposed location of waste or refuse
 8 area;

9 (h) show the proposed location of temporary subsoil
 10 and topsoil storage area;

11 (i) show the location of test boring holes;

12 (j) show the surface location lines of any geologic
 13 cross-sections which have been submitted;

14 (k) show a listing of plant varieties encountered in
 15 the area to be affected and their relative dominance in the
 16 area, together with an enumeration of tree varieties and the
 17 approximate number of each variety occurring per acre on the
 18 area to be affected, and the locations generally of the
 19 various kinds and varieties of plants, including but not
 20 limited to grasses, shrubs, legumes, forbs and trees;

21 (l) be certified as follows: "I, the undersigned,
 22 hereby certify that this map is correct, and shows to the
 23 best of my knowledge and belief all the information required
 24 by the strip mining laws of this state." The certification
 25 shall be signed and notarized. The department may reject a

1 map as incomplete if its accuracy is not so attested;

2 (m) contain such other or further information as the
 3 department may require.

4 (4) In addition to the information and maps required
 5 above, each application for a permit shall be accompanied by
 6 detailed plans or proposals showing the method of operation,
 7 the manner, time or distance, and estimated cost for
 8 backfilling, SUBSIDENCE STABILIZATION, WATER CONTROL,
 9 grading work, highwall reduction, topsoiling, planting,
 10 revegetating, and a reclamation plan for the area affected
 11 by the operation, which proposals shall meet the
 12 requirements of this act and rules adopted under this act.

13 (5) An application fee of fifty dollars (\$50) shall be
 14 paid before the permit required in this section shall be
 15 issued. The operator shall file with the department a bond
 16 payable to the state of Montana with surety satisfactory to
 17 the department in the penal sum to be determined by the
 18 board (on the recommendation of the commissioner) of not
 19 less than two hundred dollars (\$200) nor more than
 20 twenty-five hundred dollars (\$2,500) for each acre or
 21 fraction thereof of the area of land affected, with a
 22 minimum bond of two thousand dollars (\$2,000), conditioned
 23 upon the faithful performance of the requirements set forth
 24 in this act and of the rules of the board. In determining
 25 the amount of the bond within the above limits, the board

1 shall take into consideration the character and nature of
 2 the overburden, the future suitable use of the land involved
 3 and the cost of backfilling, grading, highwall reduction,
 4 SUBSIDENCE STABILIZATION, WATER CONTROL, topsoiling, and
 5 reclamation to be required; but in no event shall the bond
 6 be less than the total estimated cost to the state of
 7 completing the work described in the reclamation plan."

8 Section 20. Section 50-1041, R.C.M. 1947, is amended
 9 to read as follows:

10 "50-1041. Prospecting permit — application —
 11 contents — reclamation plan — fee — bond. (1) On and
 12 after the effective date of this act prospecting by any
 13 person on land not included in a valid strip mining or
 14 underground mining permit shall be unlawful without
 15 possessing a valid prospecting permit issued by the
 16 department as provided in this section. No prospecting
 17 permit shall be issued until the operator submits an
 18 application, the application is examined, amended if
 19 necessary, and approved by the department, and adequate
 20 reclamation performance bond is posted, all of which
 21 prerequisites must be done in conformity with the
 22 requirements of this act.

23 (2) An application for a prospecting permit shall be
 24 made in writing, notarized, and submitted to the department
 25 in duplicate upon forms prepared and furnished by it. The

1 application shall include among other things, a prospecting
 2 map and a prospecting reclamation plan of substantially the
 3 same character as required for a surface mining or
 4 underground mining map and reclamation plan under this act.
 5 The department shall determine, by rules and regulations,
 6 the precise nature of such required prospecting map and
 7 reclamation plan. Any operator who intends to prospect by
 8 means of core drilling shall specify the location and number
 9 of holes to be drilled, methods to be used in sealing
 10 aquifers, and such other information as may be required by
 11 the department. The applicant must state what types of
 12 prospecting and excavating techniques will be employed on
 13 the affected land. The application shall also include any
 14 other or further information the department may require.

15 (3) The application shall be accompanied by a fee of
 16 one hundred dollars (\$100). This fee shall be used as a
 17 credit toward the strip mining or underground mining permit
 18 fee provided by this act if the area covered by the
 19 prospecting permit becomes covered by a valid surface mining
 20 or underground mining permit obtained before or at the time
 21 the prospecting permit expires.

22 (4) Before the department gives final approval to the
 23 prospecting permit application, the applicant shall file
 24 with the department a reclamation and revegetation bond in a
 25 form and in an amount as determined in the same manner for

1 strip mining or underground mining reclamation and
2 revegetation bonds under this act.

3 (5) In the event that the holder of a prospecting
4 permit desires to strip mine or underground mine the area
5 covered by the prospecting permit, and has fulfilled all the
6 requirements for a strip mining or underground mining
7 permit, the department may permit the postponement of the
8 reclamation of the acreage prospected if that acreage is
9 incorporated into the complete reclamation plan submitted
10 with the application for a strip mining or underground
11 mining permit. Any land actually affected by prospecting or
12 excavating under a prospecting permit and not covered by the
13 strip mining or underground mining reclamation plan shall be
14 promptly reclaimed.

15 (6) The prospecting permit shall be valid for one (1)
16 year, and shall be subject to renewal, suspension, and
17 revocation in the same manner as strip mining or underground
18 mining permits under this act.

19 (7) The holder of the prospecting permit shall file
20 with the department the same progress reports, maps, and
21 revegetation progress reports, as are required of strip
22 mining or underground mining operators under this act."

23 Section 21. Section 50-1042, R.C.M. 1987, is amended
24 to read as follows:

25 "50-1042. Refusal of permit — grounds. (1) An

1 application for a prospecting, or strip mining or
2 underground mining permit shall not be approved by the
3 department if there is found on the basis of the information
4 set forth in the application, an on-site inspection, and an
5 evaluation of the operation by the department that the
6 requirements of the act or rules will not be observed or
7 that the proposed method of operation, backfilling, grading,
8 SUBSIDENCE STABILIZATION, WATER CONTROL, highwall reduction,
9 topsoiling, revegetation, or reclamation of the affected
10 area cannot be carried out consistent with the purpose of
11 this act.

12 (2) The department shall not approve the application
13 for a prospecting or strip mining or underground mining
14 permit where the area of land described in the application
15 includes land having special, exceptional, critical, or
16 unique characteristics, or that mining or prospecting on
17 that area would adversely affect the use, enjoyment, or
18 fundamental character of neighboring land having special,
19 exceptional, critical, or unique characteristics. For the
20 purposes of this act, land is defined as having such
21 characteristics if it possesses special, exceptional,
22 critical or unique:

23 (a) biological productivity, the loss of which would
24 jeopardize certain species of wildlife or domestic stock; or

25 (b) ecological fragility, in the sense that the land,

once adversely affected, could not return to its former ecological role in the reasonable foreseeable future; or

(c) ecological importance, in the sense that the particular land has such a strong influence on the total ecosystem of which it is a part that even temporary effects felt by it could precipitate a system-wide reaction of unpredictable scope or dimensions; or

(d) scenic, historic, archeologic, topographic, geologic, ethnologic, scientific, cultural, or recreational significance. In applying this subsection, particular attention should be paid to the inadequate preservation previously accorded Plains Indian history and culture.

(3) If the department finds that the overburden on any part of the area of land described in the application for a prospecting, ~~or~~ strip mining or underground mining permit is such that experience in the state with a similar type of operation upon land with similar overburden shows that substantial deposition of sediment in streambeds, SUBSIDENCE, landslides, or water pollution cannot feasibly be prevented, the department shall delete that part of the land described in the application upon which the overburden exists.

(4) If the department finds that the operation will constitute a hazard to a dwelling house, public building, school, church, cemetery, commercial or institutional

building, public road, stream, lake, or other public property, the department shall delete those areas from the prospecting, ~~or~~ strip mining or underground mining permit application before it can be approved."

Section 22. Section 50-1043, R.C.M. 1947, is amended to read as follows:

"50-1043. Reclamation operations -- submission and action on plan. (1) As rapidly, completely, and effectively as the most modern technology and the most advanced state of the art will allow, each operator granted a permit under this act, shall reclaim and revegetate the land affected by his operation, except that underground tunnels, shafts, or other subsurface excavations need not be revegetated. Under the provisions of this act and rules adopted by the board, an operator shall prepare and carry out a method of operation, plan of grading, backfilling, highwall reduction, SUBSIDENCE STABILIZATION, WATER CONTROL, topsoiling and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and plans of backfilling, SUBSIDENCE STABILIZATION, WATER CONTROL, grading, highwall reduction, topsoiling and reclamation, all measures shall be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, SUBSIDENCE, landslides, water pollution, and

1 hazards dangerous to life and property. The reclamation plan
 2 shall set forth in detail the manner in which the applicant
 3 intends to comply with this section and sections ~~117-12--and~~
 4 ~~13--150-1044, 50-1045 and 50-1046--of this act.~~ The plan
 5 shall be submitted to the department and the department
 6 shall notify the applicant by registered mail within one
 7 hundred twenty (120) days after receipt of the plan and
 8 complete application if it is or is not acceptable. The
 9 department may extend the one hundred twenty (120) days an
 10 additional one hundred twenty (120) days upon notification
 11 of the operator in writing. If the plan is not acceptable,
 12 the department shall set forth the reasons why the plan is
 13 not acceptable and it may propose modifications, delete
 14 areas, or reject the entire plan. A land owner, operator, or
 15 any person aggrieved by the decision of the department may,
 16 by written notice, request a hearing by the board. The board
 17 shall notify the person by registered mail within twenty
 18 (20) days after the hearing of its decision. Every
 19 reclamation plan shall be subject to annual review and
 20 modification.

21 (2) In addition to the method of operation, grading,
 22 backfilling, SUBSIDENCE STABILIZATION, WATER CONTROL,
 23 highwall reduction, topsoiling and reclamation requirements
 24 of this act and rules adopted under this act, the operator,
 25 consistent with the directives of subsection (1) of this

1 section shall:

2 (a) bury under adequate fill all toxic materials,
 3 shale, mineral, or any other material determined by the
 4 department to be acid producing, toxic, undesirable, or
 5 creating a hazard;

6 (b) seal off, as directed by rules, TUNNELS, SHAFTS,
 7 OR OTHER OPENINGS OR any breakthrough of water creating a
 8 hazard;

9 (c) impound, drain, or treat all runoff water OR
 10 UNDERGROUND MINE WATERS so as to reduce soil erosion, damage
 11 to grazing and agricultural lands, and pollution of surface
 12 and subsurface waters;

13 (d) remove or bury all metal, lumber, and other refuse
 14 resulting from the operation;

15 (e) use explosives in connection with the operation
 16 only in accordance with department regulations designed to
 17 minimize noise, surface damage to adjacent lands and water
 18 pollution, ensure public safety, and for other purposes.

19 (f) adopt measures to prevent land subsidence unless
 20 the board approves a plan for inducing subsidence into an
 21 abandoned operation in a predictable and controlled manner
 22 with measures for grading, topsoiling, and revegetating the
 23 subsided land surface. In order for a controlled subsidence
 24 plan to be approved the applicant must show that subsidence
 25 will not cause a direct or indirect hazard to any public or

private buildings, roads, facilities, or use areas;
constitute a hazard to human life or health; constitute a
hazard to domestic livestock or to a viable agricultural
operation; or any other restrictions the board may consider
necessary.

(g) stockpile and protect from erosion all mining and
processing wastes until such wastes can be disposed of
according to the provisions of this act.

(h) deposit as much stockpiled waste material as
possible back into the mine voids upon abandonment in such
manner as to prevent or minimize land subsidence. The
remaining waste material shall be disposed of as provided by
this act and the rules of the board.

(i) seal all portals, entryways, drifts, shafts or
other openings between the surface and underground mine
workings upon abandonment.

(3) An operator may not throw, dump, pile or permit
the dumping, piling, or throwing or otherwise placing any
overburden, stones, rocks, mineral, earth, soil, dirt,
debris, trees, wood, logs or any other materials or
substances of any kind or nature beyond or outside of the
area of land which is under permit and for which a bond has
been posted under section 6--{50-1039}, or place the
materials described in this section in such a way that
normal erosion or slides brought about by natural physical

causes will permit the materials to go beyond or outside of
the area of land which is under permit and for which a bond
has been posted under section 6--{50-1039}."

Section 23. Section 50-1044, R.C.M. 1947, is amended
to read as follows:

"50-1044. Area mining required -- grading and
revegetation -- release of bond -- alternative plan. (1)
Area strip mining, a method of operation which does not
produce a bench or fill bench, is required ~~to--obtain--a~~
surface WHERE STRIP mining permit IS PROPOSED. All
highwalls must be reduced and the steepest slope of the
reduced highwall shall be no greater than twenty (20)
degrees from the horizontal. Highwall reduction shall be
commenced at or beyond the top of the highwall and sloped to
the graded spoil bank. Reduction, backfilling, and grading
shall eliminate all highwalls and spoil peaks. The area of
land affected shall be restored to the approximate original
contour of the land. When directed by the department, the
operator shall construct in the final grading, such
diversion ditches, depressions, or terraces as will
accumulate or control the water runoff. Additional
restoration work may be required by the department according
to rules adopted by the board.

(2) In addition to the backfilling and grading
requirements, the operator's method of operation on steep

1 slopes may be regulated and controlled according to rules
2 adopted by the board. These rules may require any measure
3 whatsoever to accomplish the purpose of this act.

4 (3) All available topsoil shall be removed in a
5 separate layer, guarded from erosion and pollution, kept in
6 such a condition that it can sustain vegetation of at least
7 the quality and variety it sustained prior to removal, and
8 returned as the top layer after the operation has been
9 backfilled and graded; provided that the operator shall
10 accord substantially the same treatment to any subsurface
11 deposit of material that is capable, as determined by the
12 department, of supporting surface vegetation virtually as
13 well as the present topsoil.

14 (4) As determined by rules of the board, time limits
15 shall be established requiring backfilling, grading,
16 SUBSIDENCE STABILIZATION, WATER CONTROL, highwall reduction,
17 topsoiling, planting, and revegetation to be kept current.
18 All backfilling, SUBSIDENCE STABILIZATION, SEALING, grading,
19 and topsoiling shall be completed before necessary equipment
20 is moved from the operation.

21 (5) When the backfilling, grading, SUBSIDENCE
22 STABILIZATION, WATER CONTROLS, and topsoiling have been
23 completed and approved by the department, the commissioner
24 may release so much of the bond which was filed for that
25 portion of the operation as the commissioner may determine,

1 provided that no less than two hundred dollars (\$200) per
2 acre shall be retained by the department until such time as
3 the planting and revegetation is done according to law and
4 approved by the department, at which time the commissioner
5 shall release the bond in the remaining amount.

6 (6) An operator may propose alternative plans other
7 than backfilling, grading, highwall reduction, or topsoiling
8 if the restoration will be consistent with the purpose of
9 this act. These plans shall be submitted to the department,
10 and, after consultation with the landowner, if the plans are
11 approved by the board and complied with within the time
12 limits as may be determined by the board as being reasonable
13 for carrying out the plans, the backfilling, grading,
14 highwall reduction, or topsoiling requirements of this act
15 may be modified by the board. An operator who proposes
16 alternative plans that will affect an existing permit shall
17 comply with the notice requirement of section 6--(2)--(k)
18 §50-1039 (2) (k)4."

19 Section 24. Section 50-1045, R.C.M. 1947, is amended
20 to read as follows:

21 "50-1045. Planting of vegetation following ~~filling~~
22 GRADING of stripped DISTURBED area. (1) After the operation
23 has been backfilled, graded, topsoiled, and approved by the
24 department, the operator shall prepare the soil and plant
25 such legumes, grasses, shrubs, and trees upon the area of

1 land affected as are necessary to provide a suitable
2 permanent diverse vegetative cover capable of:

3 (a) feeding and withstanding grazing pressure from a
4 quantity and mixture of wildlife and livestock at least
5 comparable to that which the land could have sustained prior
6 to the operation;

7 (b) regenerating under the natural conditions
8 prevailing at the site, including occasional drought, heavy
9 snowfalls, and strong winds; and

10 (c) preventing soil erosion to the extent achieved
11 prior to the operation.

12 The seed or plant mixtures, quantities, method of
13 planting, type and amount of lime or fertilizer, mulching,
14 irrigation, fencing, and any other measures necessary to
15 provide a suitable permanent diverse vegetative cover shall
16 be defined by rules of the board.

17 (2) All underground shafts, tunnels, or other
18 excavations are excluded from the provisions of subsection
19 (1) of this section."

20 Section 25. Section 50-1046, R.C.M. 1947, is amended
21 to read as follows:

22 "50-1046. Time of commencement of reclamation. The
23 operator shall commence the reclamation of the area of land
24 affected by his operation as soon as possible after the
25 beginning of strip mining or underground mining of that area

1 in accordance with plans previously approved by the
2 department. Those grading, backfilling, SUBSIDENCE
3 STABILIZATION, topsoiling, and water management practices
4 that are approved in the plans shall be kept current with
5 the operation as defined by rules of the board and a permit
6 or supplement to a permit may not be issued, if in the
7 discretion of the department, these practices are not
8 current."

9 SECTION 26. SECTION 50-1052, R.C.M. 1947, IS AMENDED
10 TO READ AS FOLLOWS:

11 "50-1052. Receipts paid into special fund -- use of
12 fund. (1) All fees, forfeit funds, and other moneys
13 available or paid to the department under the provisions of
14 this act shall be placed in the state treasury and credited
15 to a special agency account to be designated as the ~~strip~~
16 mining and reclamation fund. This fund shall be available to
17 the department by appropriation and shall be expended for
18 the administration and enforcement of this act and for the
19 reclamation and revegetation of land and the rehabilitation
20 of water affected by any mining operations. Any unencumbered
21 and any unexpended balance of this fund remaining at the end
22 of any fiscal year shall not lapse but shall be carried
23 forward for the purposes of this act until expended or until
24 appropriated by subsequent legislative action."

25 Section 27. Section 50-1053, R.C.M. 1947, is amended

to read as follows:

"50-1053. Funds received by board -- reclamation work by board -- rehabilitation of unreclaimed lands. (1) The board may receive any federal funds, state funds, or any other funds for the reclamation of land affected by strip mining or underground mining. The board may have reclamation work done by its own employees or by employees of other governmental agencies, soil conservation districts, or through contracts with qualified persons.

(2) Any funds or any public works programs available to the board shall be used and expended to reclaim and rehabilitate lands that have been subjected to strip mining or underground mining that have not been reclaimed and rehabilitated in accordance with the standards of this act."

SECTION 28. SECTION 50-1054, R.C.M. 1947, IS AMENDED

TO READ AS FOLLOWS:

"50-1054. Reclamation of lands after bond forfeited. The board may reclaim, in keeping with the provisions of this act, any affected lands with respect to which a bond has been forfeited and to use moneys appropriated from the strip mining and reclamation fund for such purposes."

Section 29. Section 50-1055, R.C.M. 1947, is amended to read as follows:

"50-1055. Mandamus to compel enforcement of law -- action for damage to water supply -- damage from surface

water -- other remedies. A resident of this state, with knowledge that a requirement of this act or a rule adopted under this act, is not being enforced by a public officer or employee whose duty it is to enforce the requirement or rule may bring the failure to enforce to the attention of the public officer or employee by a written statement under oath that shall state the specific facts of the failure to enforce the requirement or rule. Knowingly making false statements or charges in the affidavit subjects the affiant to penalties prescribed under the law of perjury.

(2) If the public officer or employee neglects or refuses for an unreasonable time after receipt of the statement to enforce the requirement or rule, the resident may bring an action of mandamus in the district court of the first judicial district of this state, in and for the county of Lewis and Clark, or in the district court of the county in which the land is located. The court, if it finds that a requirement of this act or a rule adopted under this act, is not being enforced shall order the public officer or employee, whose duty it is to enforce the requirement or rule, to perform his duties. If he fails to do so, the public officer or employee shall be held in contempt of court and is subject to the penalties provided by law.

(3) An owner of an interest in real property who obtains all or part of his supply of water for domestic,

1 agricultural, industrial, or other legitimate use from an
2 underground source other than a subterranean stream having a
3 permanent, distinct, and known channel, may sue an operator
4 to recover damages for contamination, diminution, or
5 interruption of the water supply, proximately resulting from
6 strip mining or underground mining.

7 (4) A servient tract of land is not bound to receive
8 ~~surface~~ water contaminated by strip mining or underground
9 mining on a dominant tract of land, and the owner of the
10 servient tract may sue an operator to recover the damages
11 proximately resulting from the natural drainage from the
12 dominant tract of ~~surface~~ waters contaminated by strip
13 mining or underground mining on the dominant tract.

14 (5) This section does not create, modify, or affect
15 any right, liability, or remedy other than as expressly
16 provided in this section."

-End-